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Security Council

Fifty-third Year

Provisional

3864th Meeting

Friday, 20 March 1998, 10.30 a.m.
New York

President:	Mr. Sedat Jobe	(Gambia)
Members:	Bahrain	Mr. Buallay
	Brazil	Mr. Amorim
	China	Mr. Qin Huasun
	Costa Rica	Mr. Berrocal Soto
	France	Mr. Dejammet
	Gabon	Mr. Dangue Réwaka
	Japan	Mr. Owada
	Kenya	Mr. Mahugu
	Portugal	Mr. Monteiro
	Russian Federation	Mr. Lavrov
	Slovenia	Mr. Türk
	Sweden	Mr. Dahlgren
	United Kingdom of Great Britain and Northern Ireland	Sir John Weston
	United States of America	Mr. Richardson

Agenda

Letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/23306, S/23307, S/23308, S/23309 and S/23317)

98-85136 (E)

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The meeting was called to order at 10.35 a.m.

Adoption of the agenda

The agenda was adopted.

Letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/23306, S/23307, S/23308, S/23309 and S/23317)

Tribute to the memory of the victims of Pan Am Flight 103 and UTA Flight 772

The President: I request members of the Council to stand and observe a minute of silence in honour of the memory of the victims of Pan Am Flight 103 and of UTA Flight 772.

The members of the Council observed a minute of silence.

The President: I should like to inform the Council that I have received letters from the representatives of Algeria, Colombia, Cuba, the Democratic People's Republic of Korea, Egypt, Ghana, Guinea-Bissau, India, Indonesia, the Islamic Republic of Iran, Iraq, Jordan, Kuwait, the Libyan Arab Jamahiriya, Malaysia, Mali, Malta, Mauritania, Morocco, Namibia, Nigeria, Oman, Pakistan, Qatar, the Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates, the United Republic of Tanzania, Yemen and Zimbabwe, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

On behalf of the Security Council, I welcome the Secretary of the General People's Committee for Foreign Liaison and International Co-operation of the Libyan Arab Jamahiriya and invite him to take a seat at the Council table.

At the invitation of the President, Mr. Muntasser (Libyan Arab Jamahiriya) took a seat at the Council table; Mr. Baali (Algeria), Mr. Forero (Colombia), Mr. Rodríguez Parilla (Cuba), Mr. Li (Democratic People's Republic of Korea), Mr. Abdel Aziz (Egypt), Mr. Wilmot (Ghana), Mr. Da Gama (Guinea-Bissau), Mr. Sharma (India), Mr. Wibisono (Indonesia), Mr. Nejad Hosseinian (Islamic Republic of Iran), Mr. Hamdoon (Iraq), Mr. Abu-Nimah (Jordan), Mr. Abulhasan (Kuwait), Mr. Hasmy (Malaysia), Mr. Ouane (Mali), Mr. Saliba (Malta), Mr. Ould Deddach (Mauritania), Mr. Snoussi (Morocco), Mr. Andjaba (Namibia), Mr. Gambari (Nigeria), Mr. Al-Khussaiby (Oman), Mr. Kamal (Pakistan), Mr. Al-Khalifa (Qatar), Mr. Erwa (Sudan), Mr. Wehbe (Syrian Arab Republic), Mr. Hachani (Tunisia), Mr. Samhan Al-Nuaimi (United Arab Emirates), Mr. Manongi (United Republic of Tanzania), Mr. Kalaz (Yemen) and Mr. Mapuranga (Zimbabwe) took the seats reserved for them at the side of the Council Chamber.

The President: I should like to inform the Council that I have received a letter dated 13 March 1998 from the Permanent Representative of Indonesia to the United Nations, which reads as follows:

> "I have the honour to request that the Security Council extend an invitation under rule 39 of its provisional rules of procedure to Mr. Mahamadou Abou, Deputy Permanent Observer of the Organization of the Islamic Conference to the United Nations, during the Council's discussion of the item entitled, 'Letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/23306, S/23307, S/23308, S/23309 and S/23317', to be held on 20 March 1998."

That letter has been published as a document of the Security Council under the symbol S/1998/251.

If I hear no objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Abou.

There being no objection, it is so decided.

I should like to inform the Council that I have received a letter dated 16 March 1998 from the Permanent Representative of Bahrain to the United Nations, which reads as follows:

"I have the honour to request the Security Council to extend an invitation, under rule 39 of the Council's provisional rules of procedure, to His Excellency Ambassador Hussein Hassouna, Permanent Observer of the League of Arab States to the United Nations, during the Security Council's formal open debate on Libya, which will take place on Friday, 20 March 1998."

That letter has been has been published as a document of the Security Council under the symbol S/1998/252. If I hear no objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Hassouna.

There being no objection, it is so decided.

I should like to inform the Council that I have received a letter dated 18 March 1998 from the Permanent Representative of Gabon to the United Nations, which reads as follows:

"I have the honour to request that during the meeting of the Security Council devoted to the consideration of the question of the Libyan Arab Jamahiriya and the United Kingdom of Great Britain and Northern Ireland and the United States of America, the Council extend an invitation, under rule 39 of the Council's provisional rules of procedure, to His Excellency Mr. Amadou Kebe, Permanent Observer of the Organization of African Unity to the United Nations."

That letter has been has been published as a document of the Security Council under the symbol S/1998/253.

If I hear no objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Kebe.

There being no objection, it is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations, having before it the letter dated 2 March 1998 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council, document S/1998/179; the letter dated 4 March 1998 from the representatives of Algeria, Egypt, the Libyan Arab Jamahiriya, Mauritania, Morocco, the Syrian Arab Republic and Tunisia to the United Nations addressed to the President of the Security Council, document S/1998/195; and the letter dated 4 March 1998 from the Permanent Representative of Mali to the United Nations addressed to the President of the Security Council, document S/1998/199.

I should like to draw the attention of the members of the Council to the following other documents: S/1998/190, S/1998/191, S/1998/192 and S/1998/242, letters dated 2, 2, 4 and 17 March 1998, respectively, from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council; S/1998/196, letter dated 4 March 1998 from the Permanent Representative of Zimbabwe to the United Nations addressed to the Secretary-General, transmitting a letter of the same date from the Secretary-General of the Organization of African Unity addressed to the Secretary-General; S/1998/198, letter dated 5 March 1998 from the Acting Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council; S/1998/200, letter dated 5 March 1998 from the Permanent Representative of Colombia to the United Nations addressed to the President of the Security Council; S/1998/201, letter dated 15 January 1998 from the Secretary-General addressed to the President of the Security Council, transmitting the report submitted to him by the fact-finding mission to the Libyan Arab Jamahiriya; S/1998/202, letter dated 5 March 1998 from the Permanent Representative of Zimbabwe to the United Nations addressed to the President of the Security Council, transmitting a letter of the same date from the Minister for Foreign Affairs of Zimbabwe and Chairman of the Organization of African Unity (OAU) Committee on the Dispute between the Libyan Arab Jamahiriya and the United Kingdom and the United States addressed to the President of the Security Council; and S/1998/239, letter dated 16 March 1998 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland and the Acting Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council.

The first speaker inscribed on my list is the distinguished Secretary of the General People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya, His Excellency Mr. Omar Mustafa Muntasser, to whom I give the floor.

Mr. Muntasser (Libyan Arab Jamahiriya) (*interpretation from Arabic*): Allow me at the outset to congratulate you, Sir, on the assumption of the presidency of the Security Council for this month. As an African brother, I am very pleased to see you guiding our debate.

I wish also to express to you, Mr. President, and to the members of the Security Council our gratitude for your agreeing to convene this formal meeting. Undoubtedly, it is a step that we fully appreciate. We believe it is appreciated by the entire international community as represented by Member States of the United Nations, as it constitutes a signal of a commitment to compliance with the provisions of the United Nations Charter. This meeting is being held in accordance with Articles 31 and 32 of the Charter, in response to our formal requests contained in documents S/1998/179 and S/1997/857.

I would also like to express our solidarity and sympathy with the families of the Lockerbie victims and our sadness at their suffering. We hope that a quick agreement will be reached on a resolution of the dispute over a venue for the trial of the two suspects in order to end their suffering and the suffering of millions of Libyan families.

Today's Security Council agenda item goes back seven years — "Letters dated 20 and 23 December 1991, S/23306, S/23307, S/23308, S/23309 and S/23317". Some of these letters contained demands from the United States and the United Kingdom upon Libya. Those two countries chose to announce those demands first in a press conference, and not through accepted legal channels and judicial procedures.

Those demands were, first, the extradition of two Libyan citizens suspected of being involved in the incident of the destruction of Pan Am flight 103 over Lockerbie, Scotland, in 1988. This demand runs counter to Libyan national law and most laws in the world relating to jurisdiction and non-extradition of citizens. It runs counter to international customary law. It also runs counter to the 1971 Montreal Convention and even to the judgements of the United States Supreme Court barring extradition in the absence of an extradition treaty. This is precisely the case between Libya and the United States and the United Kingdom.

The second demand was the payment of compensation, which is indeed an outrage for any legal conscience because it contravenes the law and encroaches upon the defendant's right to being considered innocent until proven guilty. Moreover, such a demand deviates from the right course of the law as regards civil liability, particularly the liability of the State, which attaches to a criminal act.

The third and strangest demand was that Libya should provide the evidence proving the guilt of the two suspects. It is a well-known fact that Libya neither accused nor suspected the two Libyan citizens; it was the United States and the United Kingdom who accused the two Libyan citizens, and they, not Libya, therefore bear the burden of providing evidence.

Strange as they are, all these demands are related to legal procedures and any dispute over them is a legal one. This is exactly what Libya has repeatedly emphasized, and it has thus dealt with these demands on that basis.

Allow me at this juncture briefly to go over the developments of this dispute as is required by such an important situation for my country, which, having done no wrong and in the absence of a court judgement, has been suffering, together with its people, from collective sanctions for the last six years. All of this suffering, of severe material and moral magnitude, is without a legal basis. Add to this the suffering of the families of the victims of this tragic accident, who are, like us, anxious to have the two suspects brought to trial in a just and fair court, to uncover the truth and to put an end to their suffering and that of our people.

Allow me to describe the evolution and background of the dispute, which I shall summarize with the following points.

First, the suspicion of the involvement of two Libyan citizens in the Lockerbie incident was based on the allegation that they placed an unaccompanied suitcase containing a time-bomb on an Air Malta flight that took off from Malta.

Second, the Government of Malta investigated the matter and concluded that there were no unaccompanied bags on that flight. Further, the competent authorities in Germany also investigated the matter and found nothing to corroborate the story of the bag.

Third, right from the start, Libya dealt with the suspicion of its two citizens, within the framework of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of which article 7 accords Libya judicial competence for trying the two suspects. Legal procedures provided for in article 6 of the same Convention were put into effect. On the basis of these procedures, the two suspects were apprehended and two judges were entrusted with investigating the case which they started.

Fourth, in a letter sent to the Secretary of State of the United States and the Foreign Minister of the United Kingdom, the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of Libya called for the implementation of article 14 of the 1971 Montreal Convention, which states that

> "Any dispute between two or more Contracting States ... which cannot be settled through negotiations, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

Fifth, the issue was brought before the Libyan legislative authorities — the General People's Congress — during its 1992 session, and it did not object to the investigation and the trial of the two suspects being taken up by the Committee of Seven established by the Arab League to deal with the dispute or by the United Nations before a just and fair court to be agreed upon.

Sixth, Libya proposed that the Secretary-General should establish a legal committee composed of neutral and impartial judges to ascertain the facts.

Seventh, Libya declared its readiness to enter into negotiations with the States concerned, under the auspices of the United Nations Secretary-General, for the purpose of conducting a trial in a neutral country.

Eighth, the countries concerned immediately transformed the question from a legal to a political one by submitting it to the Security Council. Within one month, the Council adopted resolution 731 (1992) on 21 January 1992 under the threat of military aggression being launched against Libya. This forced the Security Council to adopt the resolution in order to save Libya from a greater danger which was looming. The United States of America, let us not forget, attacked Libya in 1986.

Ninth, resolution 731 (1992) did not address the Libyan Government except to urge the Libyan Government to provide a full and effective response to these demands in order to contribute to the suppression of international terrorism. That resolution was adopted in clear violation of the provisions and principles of the Charter of the United Nations whose Article 27, paragraph 3, states,

> "Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting."

The parties to the dispute did take part in the voting and did not abstain, as is provided by Article 27.

Resolution 731 (1992) was also adopted in a clear violation of Article 33, paragraph 1, of the Charter, which states,

> "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice."

Paragraph 2 of the same Article states,

> "The Security Council shall ..., call upon the parties to settle their dispute by such means."

Resolution 731 (1992) was also adopted in a clear violation of Article 36, paragraph 3, of the Charter which states,

> "In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice."

In view of this dangerous development which politicized a legal question and of the refusal of the other two parties to establish judicial cooperation, Libya unilaterally resorted to the International Court of Justice on 3 March 1992. In so doing, Libya has met all its commitments made obligatory under applicable international law.

In a belated attempt to pre-empt the Court's decision, and after Libya's submission of its claim to the International Court of Justice, the two countries concerned quickly resorted to the Security Council, pushing it into adopting resolution 748 (1992) on 31 March 1992 and Security Council resolution 883 (1993) on 11 November 1993, imposing sanctions on my country and expanding the sanctions. Those resolutions were based on Security Council resolution 731 (1992), which was adopted in clear violation of Articles 27, 33, and 36 of the Charter. Legal rules stipulate that that which is illegally based is likewise illegal. Furthermore, those resolutions were adopted under Chapter VII of the Charter, which deals with "threats to the peace, breaches of the peace, and acts of aggression".

Everybody knows that the tragic Lockerbie incident took place in 1988, four years prior to the adoption of those Security Council resolutions, and that the suspicion involved two individuals, who could not constitute a threat to the peace, breach the peace or commit acts of aggression. How can two individuals threaten or destabilize the peace or commit an act of aggression?

The two countries concerned challenged the jurisdiction of the International Court of Justice in handling this case, asserting that the Montreal Convention was not applicable. Accordingly, the Court was obliged to review this aspect of the case and to postpone reviewing the original case, thus leading to a further delay in dealing with the dispute.

In the light of all this, Libya applied the provisions of Article 33 of the Charter, resorting to regional and international organizations to seek a solution by negotiation, inquiry, mediation, conciliation, arbitration or judicial settlement. Libya submitted the issue to the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement. These organizations established committees which contacted the parties concerned in search of a solution that would satisfy all parties. However, their noble endeavours were aborted through rejection, disregard and worse. Those organizations, once their noble efforts of mediation or conciliation had failed, submitted proposals aimed at the judicial settlement of the question through one of three options.

The two countries rejected all the offers and proposals put forward by those regional and international organizations, which together with some other countries that are not members of those organizations, constitute the international community. The position of the United States and the United Kingdom, by virtue of their permanent membership in the Security Council, where they enjoy veto power, prevented a response to these proposals in spite of their repeated submission.

This situation continued despite all the appeals repeatedly adopted by those organizations, which were regularly presented to the Security Council and to the United Nations Secretariat in writing, and in person, by the Secretaries-General of those organizations, who came specifically for this purpose to United Nations Headquarters and the Security Council. Those decisions were adopted at the summit conferences of those organizations, represented by the Kings, Presidents, Emirs, and Heads of Government of the States members of those organizations. The statement of President Robert Mugabe, Chairman of the Organization of African Unity, before the Security Council on 25 September 1997 was but a reaffirmation of positions of the African Summit and the summits of all those organizations.

Also rejected by the United States and the United Kingdom were the demands and appeals of most of the families of the victims, who called for trying the two suspects in a neutral country. Libya alone observed the Charter of the United Nations, international conventions and covenants. Please do not forget that my country was born of this Organization, as Libya's independence was declared as a result of a United Nations resolution. Libya has accepted the proposals submitted by regional and international organizations, out of its limitless respect for those organizations, their leaders, their Governments and their peoples. On this occasion, we would like to renew our continued adherence to our commitments and our respect for all the offers we have previously agreed to. My country has fully responded to all relevant resolutions.

First, regarding so-called terrorism, if the file on terrorism is to be opened, we reserve the right to announce what is irrefutable. In this respect, the substance of our statements would cover all time, all human history and the breadth of the entire globe. We shall demonstrate how most peoples of the world, including the Libyan people, have been victims of terrorism. Some of these people, including Libyans, are still victims of terrorism. We can prove this irrefutably. We can even prove that the contemporary political problems of various countries and regions have been the creation, the product and the responsibility of those who now accuse us of terrorism.

Needless to say, the struggle for liberation against occupiers and colonialists is not terrorism. Liberation movements are not terrorist movements. Suffice it to say that those who accuse us of terrorism used to label those struggling for freedom terrorists, or guerrillas. Now, having liberated their countries, securing victories which are a source of happiness for us, they are recognized and welcomed, and red carpets are spread out for them. They are addressed by the titles they deserve, such as "Your Excellency" and "Your Highness". Political relations are established with them and ambassadors exchanged. Several ambassadors and delegates in this Organization were among those who struggled for liberty.

Libya has supported such people and stood by them, in the belief that this is its duty to them, and to the cause of freedom, as they fought against those who occupied and colonized their countries. They did not fight outside their countries. We also did that because they stood by our side and helped us when our country was colonized, and because they fought the hated racial discrimination exercised by the occupiers hailing from overseas. Now the whole world stands against racism, and we thank God very much for that. Thus, Libya has never supported terrorism but has assisted in the liberation struggle — and there is a big difference between the two.

In full response to Security Council resolutions, and out of respect for the Council, Libya has undertaken the following:

First, Libya declared its condemnation of terrorism in all its forms and manifestations in several letters to the Secretary-General of the United Nations and the President of the Security Council, such as those contained in documents S/23396, S/24209, S/24961 and S/1994/900. Libya repeated this declaration at various levels of responsibility.

Secondly, Libya called for the convening of a special session of the General Assembly to consider the question of terrorism (A/46/840). Thirdly, Libya announced its readiness to formulate an agreement, or bilateral or multilateral agreements, which would define the methods required to eradicate international terrorism; it expressed its readiness to enter into bilateral or multilateral talks to achieve this end (S/23672).

Fourthly, Libya announced that it would never allow its territory, citizens, or institutions to be used in any form to commit terrorist acts, directly or indirectly, and expressed its readiness to punish severely those proved to be involved in such acts (S/23417).

Fifthly, Libya further declared that it had no objection to inquiries inside the Jamahiriya by the Secretary-General or one of his representatives in order to refute or confirm these claims, and committed itself to providing all facilities and information which the Secretary-General or his representative deemed necessary to uncover the truth (S/23672 and S/23417).

Sixthly, throughout the last six years my country has called on the Security Council and the Secretariat to send a committee, an envoy or envoys to ascertain the fact that my country had nothing to do with terrorism (S/26500, S/26760, S/1996/73, S/1996/609, S/1997/378, S/1997/503, S/1997/518, S/1997/549, S/1997/875, S/1997/880). Once more, it reiterates those calls.

Libya has categorically denied any link to the tragic Lockerbie incident and any knowledge by Libyan authorities of the culprits. Libya has affirmed its condemnation of international terrorism in all its forms and expressed the sympathy and solidarity of the Libyan people with the families of the victims of the incident (document S/23226). Libya has immediately and effectively responded to the requests of the British Government relating to the Irish Republican Army. The British Foreign Ministry notified the Security Council that Libya's replies to its queries regarding the Irish Republican Army were satisfactory and conformed to its expectations (document S/1995/973). Of course, we all know that the Irish Republican Army is present at 10 Downing Street and at Pennsylvania Avenue.

In addition to all that was stated with regard to the claims, offers, proposals and initiatives which were made, submitted or accepted by us, my country, out of its respect for this Council and in response to its resolutions, did the following:

First, it declared that, as a State, it had no objection to the two suspects' presenting themselves before a just and fair court, in a neutral country, and even urged the two suspects to do so (documents S/24961, S/26313 and S/26523).

Secondly, it urged the two suspects to agree to appear before a Scottish court in Scotland (documents

S/26629 and S/26523). However, the two suspects categorically refused to do so because their defence lawyers advised them not to agree to a trial in the United Kingdom or the United States, since they had already been pre-condemned in those countries by the intensive and concentrated media coverage of the issue and statements made against them by officials of the two countries. Such a situation does not provide an environment suitable for a fair and just trial in accordance with human rights. The lawyers for the two suspects threatened to sue the Libyan State under local and international laws if it surrendered the two suspects against their will to either of the two States (document S/26629). It is noteworthy that the team of lawyers defending the two suspects includes two British subjects, one of whom is Scottish, and two American citizens.

Thirdly, my country has asked that the two suspects be accorded the same treatment accorded to American citizen Timothy McVeigh, the accused in the Oklahoma City bombing. Mr. McVeigh's trial venue was transferred from the state where the crime was committed to another — Colorado — because the environment of prior condemnation by public opinion in the place where the bombing occurred did not accord him his human right to a fair trial. Libya recalls that human rights have no nationality (S/1997/518).

What we have stated demonstrates that the sanctions the Security Council adopted in accordance with its resolutions 748 (1992) and 883 (1993) constitute collective punishment against the entire Libyan people as a result of nothing more than a mere suspicion against two of its citizens. As such, they represent a blatant violation of all international human rights instruments, which stipulate that punishment can be imposed only when an unlawful act has been perpetrated, when it has been proved by a fully independent and impartial investigation to have been committed and when the perpetrators have been tried and duly convicted by a fair and impartial court that considered the case in a fair and just manner.

The two Libyan citizens are mere suspects who have not been accused, interrogated, brought to trial or convicted by a court of law. Therefore, the sanctions imposed by the Security Council clearly violate article 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights, which stipulates that an accused person is presumed innocent until proven guilty, to say nothing of the present case, which is based on no more than mere suspicion.

This is collective punishment against the entire Libyan people in a blatant violation of paragraph 2 of article 1 of the International Covenant on Civil and Political Rights, which stipulates that

> "In no case may a people be deprived of its own means of subsistence." [General Assembly resolution 2200 (XXI), annex]

Thus, these sanctions violate the human rights of each and every individual Libyan, which have been guaranteed by the International Bill of Human Rights: the right of every person to an adequate standard of living for himself and his family; the right to be free from hunger; the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the right to education; the right to freedom of movement; and the right to work.

As a result of my country's strength of argument, sound reasoning, realism and flexibility in dealing with this issue, and its adherence from the start to the United Nations Charter, international conventions, agreements and law, it has received strong and firm support from the international community.

What is now left for the other party to say and what is its reasoning?

The other party says the following: that Libya knows what it has to do; that, so long as there are Security Council resolutions, Libya must implement them; that the problem is between Libya and the Security Council, and not between Libya and the United States and the United Kingdom; and that the two suspects would receive a just trial in Scotland and observers could be invited to attend the trial.

Allow me briefly to address these points. First, Libya has done everything that it knows should be done. As I mentioned earlier, Libya has responded to all demands addressed to it and has endeavoured in every way possible to find a solution to the dispute, despite the fact that it has always been sure of the innocence of its two citizens.

Secondly, as regards the implementation of the resolutions that have already been adopted, and despite our reservations about the manner in which they were adopted — under the threat of armed military aggression; despite the fact that they were adopted as an alternative to such aggression in order to spare my country an evil greater than the worst resolutions, which entail damages less than those of a military aggression; and despite the fact that they were adopted in violation of the Charter, the Libyan Arab Jamahiriya has responded in full to what was asked of it in accordance with these resolutions, as I have explained. Furthermore, all Security Council resolutions which were implemented, were carried out through negotiation and dialogue.

Thirdly, my country has affirmed, as confirmed by reality, by the two Judgments of the International Court of Justice, and as attested to by most members of the Council and the United Nations at large, that the problem is between my country and the United Kingdom and the United States, and not between my country and the Security Council. If their claims are true, why do they not leave the matter to us, the Libyans, and to the Council to try to find a solution to the question? And why do they continually hinder the work of the Council whenever it tries to consider it and find a solution? Why do they not observe the provisions of the Charter and abstain in the voting, since they are parties to the dispute? It is no justice at all that a party to the dispute be adversary, judge and jury at the same time through its membership in the Security Council and its well-known privileges in that Council, where the parties to the dispute act in violation and contradiction of Articles 27, 33 and 36 of the United Nations Charter.

Libya's observance of the Charter in all phases of this question confirms the extent of its dedication to and respect for the United Nations and all its organs, including the Security Council, and for international law. It also shows who does not respect the United Nations or its Security Council, Charter and covenants, and works by every means to manipulate them as tools in the service of their foreign policy, at the expense of the interests of the international community, and in violation of international law.

Fourthly, Libya has never cast doubt on the Scottish judiciary or Scottish law. It even sent an official letter to the Security Council in July 1997 confirming its appreciation of the deep-rooted history of Scottish law and judiciary (document S/1997/518). Moreover, Libya has urged the two Libyan suspects to appear before that judiciary. It has even accepted a trial for the two at the International Court of Justice in The Hague by Scottish judges, under Scottish law (document S/26523).

What was said about Scotland in the letters sent to the Security Council by the attorneys for the two suspects relates to the venue and has nothing to do with the judges or the law: Scotland offers a climate which would not be conducive to a just and fair trial in view of the media campaign and the statements of government officials (S/26629).

In this respect, we would recall that the trial of Timothy McVeigh was transferred from Oklahoma City to Denver, Colorado, not because of any challenge to the fairness of the judiciary or to the law in Oklahoma but because the place in which the crime was committed no longer provided the conditions needed for due process and a fair trial for the accused. Also, we should not forget that the case of the two Libyans is one of suspicion only. As for the observers, they would be mere spectators, like other spectators who watch a play or a movie, in that they cannot interfere in or influence its events or scenes. Even if such spectators have views, their views would only be like those of a play or movie critic.

After a long wait, the International Court of Justice, to which we resorted on 3 March 1992, rendered its Judgments against the other parties, which had challenged its jurisdiction. The two Judgments of the Court, which were rendered on Friday, 27 February 1998, contain principles relating to basic questions which can be summarized as follows: that there is a dispute between the parties in this case on the interpretation and application of the Montreal Convention of 23 September 1971; that the Court has jurisdiction, on the basis of article 14, paragraph 1, of the Convention; and that the requests of the Jamahiriya are admissible notwithstanding Security Council resolutions 748 (1992) and 883 (1993). On that basis, the Court rejected the objections to inadmissibility submitted by the United Kingdom and the United States of America. The Court also rejected the objection that the Libyan requests should be considered invalid and irrelevant following the adoption of the above-mentioned Security Council resolutions: the objection was immaterial in the circumstances of the case.

There is no denying that a new situation has arisen since the issuance of these two Judgments by the Court, which should be binding for all United Nations organs and their members given that, under Article 92 of the Charter, the Court is the principal judicial organ of the United Nations.

First, each Member of the United Nations should comply with the judgments of the Court in any case to which it is a party, pursuant to paragraph 1 of Article 94 of the Charter. Thus, the United Kingdom and the United States should be bound by the Court's decisions regarding their dispute with Libya over the interpretation and application of the 1971 Montreal Convention Libya; that the Court has jurisdiction in considering that dispute; and that the Security Council resolutions in question have no effect on the Libyan demands.

Secondly, on the other hand, a decision of the Court is binding on the parties in respect of the particular case on which the decision made, in accordance with Article 59 of the Statute of the Court. Under Article 60 of the Statute, a judgment is final and without appeal.

Thirdly, the Security Council may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to a judgment, in accordance with Article 94, paragraph 2, of the Charter. This means that even though both the Charter and the Statute confirm that each party to a dispute must comply with the decision of the Court, the Charter also gives the Security Council the power to adopt a resolution containing such measures as it deems necessary to give effect to a judgment, that is, to ensure that a judgment is binding on all Members of the United Nations in respect of the dispute on which the judgment was rendered.

In the light of these considerations, and in application of the legal norms to which I have referred, the following conclusions can be drawn.

First, the Lockerbie matter is a legal dispute between Libya, on the one hand, and the United States and the United Kingdom, on the other. The Court has jurisdiction over that dispute in accordance with the Charter and the Statute of the Court. This being the case, the parties to the dispute must comply with the two Judgments rendered by the Court in that respect. None of them may take unilateral or multilateral measures except through the Court. Since they are parties to the dispute, they must abstain in the voting on any decision or recommendation relating to it, in accordance with Article 27, paragraph 3, of the Charter.

Secondly, Members of the United Nations, parties to the Statute of the International Court of Justice, are bound by the provisions of the Charter relating to the Court and by the provisions of the Statute of that Court, especially with regard to the finality of the Court's judgments and their binding character on all parties to a dispute.

Thirdly, the Security Council must, by virtue of the provisions of the Charter, make the recommendations and take the measures needed to give effect to a judgment, whether or not it is requested to do so.

Fourthly, Libya, as a party to the dispute, has from the beginning taken all the steps needed to resolve it peacefully and has implemented all requests by international organizations, including the Security Council, in relation to it, except for those relating to the interpretation and application of the 1971 Montreal Convention, on which it resorted to the Court, as provided in Article 33 of the Charter and article 14, paragraph 1, of the Convention, and was vindicated by the Court.

Fifthly, the sanctions provided for in Security Council resolutions 748 (1992) and 883 (1993) have become irrelevant and moot since the Court has accepted jurisdiction in the matter on which the resolutions were based.

It is an established fact that Libya was the first to resort to the Court. The last two decades have witnessed several occasions on which Libya resorted to the Court in observance of the norms of international law and the Charter, in connection with the settlement of disputes by peaceful means and in accordance with the Statute of the Court and its rules of procedure. The judgments rendered by the Court never faced any difficulty or obstacles in their implementation. This behaviour has resulted in the stability of Libya's international relations, especially with neighbouring countries. When Libya resorted to the Court in the Lockerbie matter, it did so in implementation of a policy based on respect for the norms of international law, the Charter and the Statute of the Court, in spite of the injustice which was inflicted upon it and its neighbours by the unjust Security Council resolutions.

In the light of the above considerations relating to the background of the dispute, the Judgments of the Court open up prospects for achieving the basic purposes of the United Nations in respect of acting in accordance with the principles of law, justice and the peaceful settlement of disputes. These are the objectives which led, more than 50 years ago, to the inclusion in the Charter of the provisions relating to the establishment of the Court.

The Judgments of the Court enhance the initiatives of all the regional organizations concerned to achieve a just solution to a dispute whose legal character is very clear, in respect of which there is an international

Convention, applicable to all parties to the dispute without exception, which provides the right framework for the settlement of the dispute.

Implementation of the Judgments of the Court, which are final and binding, as supported by the provisions of the Charter and the resolutions of the regional organizations concerned, makes it incumbent on the parties to the dispute and on members of the Security Council — which must act in accordance with the purposes and principles of the United Nations and the provisions of the Charter in order for the Council's decisions to be acceptable and binding — to deal with the question on the basis of a new vision for handling the dispute and its economic and humanitarian consequences, according to which, especially, the resolutions of the Security Council with regard to the maintenance of international peace and security are of a temporary and not an indefinite nature.

Sanctions have been imposed on Libya since 1992 within a framework and in accordance with a description of the dispute that were found by the principal judicial arm of the United Nations to be invalid. Since 1992 Libya's point of view has been that the disputes between it and the United States and the United Kingdom are legal disputes, and that application of the provisions of Article 36, paragraph 3, of the Charter make it incumbent on the Security Council in making its recommendations, as in resolution 731 (1992), to take into consideration the fact that legal disputes should be referred by the parties to the International Court of Justice. The Court has rendered its decision to this effect, that the Court has jurisdiction in that dispute and that Libya's application in this respect is acceptable to the Court.

For the sake of fruitful cooperation between the Court and the Security Council, the Council must take the necessary measures to give effect to the two Judgments rendered by the Court on 27 February 1998.

First, the Council should promptly and urgently refrain from renewing the sanctions imposed on the Libyan Arab Jamahiriya pursuant to resolutions 748 (1992) and 883 (1993).

Secondly, those two resolutions should be rescinded insofar as they relate to the imposition of sanctions on the Libyan Arab Jamahiriya.

Thirdly, the two cases before the International Court of Justice should be considered the only peaceful means for settling the dispute between the parties, and the Council should call on them not to take any unilateral or multilateral measures until the Court renders its final judgment.

Fourthly, as an interim measure, the Council should suspend implementation of the two resolutions insofar as they relate to the sanctions imposed against the Libyan Arab Jamahiriya.

The continued failure to suspend sanctions imposed on a whole people, indeed on the peoples of the entire region, for six years on the basis of a resolution which the Court has viewed as non-binding in respect of legal disputes — in which the Council is not competent — and on the basis of an erroneous procedure comes close to violating the 1948 genocide treaty. We are confident that everybody will abstain from participating in this violation of the law in this decade of respecting the law in relations between peoples.

Libya believes that these two Judgments by the International Court of Justice pave the way for a definitive settlement of the Lockerbie dispute and hereby declares once more its continued acceptance of the initiatives of international forums, including the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Movement of Non-Aligned Countries, addressed to the Security Council with regard to settling the dispute and about which the Council was periodically informed, with a view to ensuring the effective implementation of international and national law. Libya most emphatically reasserts before the Security Council and the entire world that it was not responsible for the tragic destruction of Pan Am flight 103 over Lockerbie and the horrendous loss of human life that resulted.

It is noteworthy that since the occurrence of the tragic event over Lockerbie, many books, articles and investigative reports have been issued, and many audio-visual recordings presented whose sources are both American and British which absolved Libya from responsibility for that event. The majority of those who prepared and published this material were from the United States and Britain. If the United States and the United Kingdom really believe in good faith that they actually possess circumstantial evidence of Libya's link to the incident, then those two States are obligated to bring their so-called evidence to the International Court of Justice, in accordance with the binding rules of international law and the normal practice for resolving serious legal disputes between sovereign and civilized States.

I should like to state publicly before the Council that my country was the first to come to the Security Council, upon the announcement of the indictment against its citizens on 16 November 1991 — more than a month before the other parties contacted the Council, on 20 December 1991. Today, my country comes to the Council once again to ask for the implementation of the judgment of the Court. We do that out of respect for the Council and our keenness to preserve its credibility. We are hopeful that right will be established, the law upheld and the causes of the bitter suffering of our people eliminated, making it possible to get closer to a day when the suffering of the families of the victims of the tragic incident would end, too.

Before all present, my country would like to confirm that it still upholds the principles and consistent position it declared upon the evacuation of the military forces of both the United States of America and the United Kingdom from its territory in 1970, when we considered that a new page had been opened in our relations with both countries, and that we no longer had any problems with either of them. At that time, we called upon them to enter with us into an equal relationship based on mutual respect, non-interference in internal affairs and cooperation on an equal footing. We have not severed our relations with them. They did that unilaterally for no genuine reason. We have not interrupted our cooperation with them. They did so unilaterally without any real reason.

Today we renew our call to them to turn over a page that is no longer of any benefit to either of us, and open a new page in which we would exchange benefits, not accusations, within the framework of normal political and economic relations characterized by dialogue, not discord, and cooperation, not boycott.

We urge the Security Council to embark on a drastic review of the decisions it took in very critical circumstances against my country, taking into consideration what I have said in this statement and what the international community has incessantly called for — the suspension of the resolutions referred to.

We pray to God to help us all in obeying what he said in the Holy Koran:

> "We … made you into nations and tribes, that ye may know each other … The most honoured of you in the sight of Allah is (he who is) the most righteous of you." [*The Holy Koran, IL:13*]

May the peace and blessings of God be upon you.

The President: I thank the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya for the kind words he addressed to me.

Mr. Richardson (United States of America): The United States appreciates the opportunity to participate in today's special meeting of the Security Council to lay out our case for justice. It was interesting to listen to the Foreign Minister of Libya. He makes what may seem to be a compelling argument. But, as the great American President John Adams once said, "Facts are stubborn things".

The United States welcomes this opportunity to publicly lay out the facts and set the record straight on this case.

Unfortunately we must begin with the events of nine years ago this past December, when a terrorist bomb blew Pan Am flight 103 out of the sky over the town of Lockerbie, Scotland. Two hundred and seventy innocent people from 21 countries, including 189 Americans, were killed that evening. Some of their family members are here in the gallery to witness this debate. Evidence of Libyan complicity in their untimely deaths and the subsequent search for justice is at the core of the sanctions against Libya and our discussions today.

I have listened to Libya and its supporters argue that sanctions are subjecting the Libyan people to widespread humanitarian suffering. I have listened to Libya complain that the mechanisms and procedures currently in place to deal with humanitarian issues are inadequate.

I have listened to Libya and its supporters argue that the recent ruling by the International Court of Justice requires that sanctions against Libya be suspended. Simply put, these assertions are false.

First, let me address the issue of the recent decision by the International Court of Justice. The rulings in no way question the legality of the Security Council's actions affecting Libya or the merits of the criminal cases against the two accused suspects.

The rulings of the Court involved technical, procedural issues. Contrary to the assertions of the Libyan Government, the Court is not calling for the review or suspension of Security Council resolutions. The Court has made clear that it was not dealing with the substance or the merits of the case.

In 1992 the International Court of Justice specifically rejected this interpretation of its review of Libya's claims. In reality, the Court has simply said that the parties must now argue the legal merits of the case. And while the case is proceeding, Libya must finally adhere to the will of the international community, comply with its obligation pursuant to Security Council decisions and turn over the two accused suspects for a fair trial.

Let me turn now to the claims of humanitarian suffering in Libya.

Today, Libya remains the wealthiest country in Africa on a per-capita basis. Immunization coverage for children is over 90 per cent. As the chart behind me demonstrates, Libya is importing more medical instruments today than it did prior to the imposition of sanctions. And a 1996 report on maternal and child health in Libya put forward by the Arab League and the Libyan Government states that

> "Childhood mortality estimates reflect a steady decline, particularly during the last five years".

The fact is, United Nations sanctions against Libya are targeted sanctions, imposed to address aspects of Libyan involvement in international terrorism but specifically designed to prevent suffering among the Libyan people. These sanctions do not prohibit the importation of food, medicine or clothing. They do not close Libya's land or sea borders, and they do not prevent Libya from selling its oil on the open market.

In fact, Libyan oil production under sanctions remains steady. The income from this oil has fluctuated with the price of oil, but industry estimates conclude that in 1997, Libya earned nearly $10 billion from the sale of oil — I repeat, $10 billion. So if Libya is suffering economically, it is certainly not because of United Nations sanctions.

The Libyan Government has claimed that United Nations sanctions hinder medical treatment for its people. Once again, the facts tell a different story. The sanctions regime has always permitted exceptions to the air embargo for approved medical evacuation flights. And as the Chairman of the sanctions Committee recently stated, procedures for approving these flights work well with Libyan cooperation and permit flights to be approved on very short notice, sometimes even within a matter of hours. In fact, the number of approved medical evacuation flights has increased every year since sanctions were imposed.

Finally, the Libyan Government has repeatedly and erroneously claimed that sanctions prevent Libyan pilgrims from making the Hajj to Saudi Arabia. The United States, as well as every member of the Security Council, has no intention or desire to prevent the Libyan people from fulfilling their religious obligations. For the past three years, the United States has supported sanctions Committee approval of direct flights from Libya to Jeddah on third-country aircraft for Libyan pilgrims. These flights have enabled all Libyan pilgrims, thousands of Libyans, to fly directly to the Hajj, a privilege that few other countries can provide. More Libyans have flown to the Hajj since sanctions than at any time before them; witness the chart once again.

Let me also say a few words about the Petrovsky report, which the Libyan Government claim buttresses their allegations of humanitarian suffering. The Petrovsky mission adhered to its mandate, which was simply to listen to Libyan views. It did not agree with, endorse, or confirm the claims of the Libyan Government. In fact, the report underlined that Libya has failed to respond to or take advantage of efforts by the United Nations to respond to its complaints.

Indeed, I would invite the Libyan representative to read the recent report put out by the Secretary-General evaluating the Scottish legal system.

This report concludes,

> "that the accused would receive a fair trial under the Scottish judicial system. Their rights during the pre-trial, trial and post-trial proceedings would be protected in accordance with international standards. The presence of United Nations and other international observers can be fully and easily accommodated. A trial by jury would not prejudice the accused's right to a free trial." *(S/1997/991, annex, part IX)*

If Libya truly wants these sanctions lifted, its course of action is clear: surrender the two suspects so they can receive a fair trial in the appropriate criminal court. Regrettably, all the assertions made today by my Libyan colleague simply evade the main issue at hand, and that is the search for justice.

We are not here today because of United Nations sanctions, and not because of the simply absurd notion that the United States seeks the permanent imposition of sanctions against Libya.

We are here today because, six years ago, following two of the most extensive — extensive — criminal investigations ever undertaken, compelling evidence was presented to indicate that Libyan intelligence operatives placed the bombs that destroyed Pan Am flight 103 and Union de transports aerens (UTA) flight 772. The international community condemned these horrific acts of terrorism and imposed sanctions upon Libya so that the men responsible would soon be brought to justice. Six years later, we are still waiting.

My Government does not enjoy this situation. It is not our goal to see Libya reduced to an international pariah. In fact, we look forward to the day when these sanctions can be removed and Libya once again is a member in good standing of the international community.

But that day cannot and will not come until the victims of Pan Am 103 and UTA 772 receive the justice — the justice — that they so richly deserve.

Mr. Berrocal Soto (Costa Rica) (*interpretation from Spanish*): I congratulate you, Sir, on the way in which you are conducting our important debates today.

The subject that is today before the Security Council undoubtedly has many facets and implications in the realm of political realities and in the legal field and that of international legality.

Given this profound complexity, my country is not prepared to provide a complete and definitive answer to all the questions before us. Nonetheless, on two essential aspects of our debate today the position of Costa Rica will always be one of principle, consistent with the letter and the spirit of the Charter of the United Nations.

First, in connection with the sanctions regime, whether it be this case of Libya or any other State made subject by the Security Council to the provisions of Articles 39 and 41 of the Charter in this matter, Costa Rica has stated on a number of occasions that, although we accept the principle that sanctions are a means of collective defence for international society, recognized and established in the Charter, the regime established must be carefully designed to meet the all-important objective of changing the illegal policies of a given Government. This and nothing but this is the objective of the sanctions. And from this standpoint, therefore, the sanctions — which must always be time-limited — must not under any circumstance become a form of punishment for the innocent civilian population and must always be interpreted in a restricted manner in the context of an overall humanitarian approach. Moreover, any sanctions regime must be accompanied by active and on-going dialogue among the parties in order to ease the way for the State that is subject to sanctions to change and modify its illegal policies and thus be reincorporated, when its new conduct is clearly established before the Security Council, into the international community as a full member under the terms of the United Nations Charter.

This is Costa Rica's position of principle, which we have always affirmed and defended before the Security Council and in the sanctions committees — although, obviously, the foundations and the objective facts of every situation and of every sanctions regime are different, whether it may apply to Iraq, Sierra Leone, Liberia, Somalia, Angola or Rwanda. And this is also the position of principle in the specific case of Libya.

Secondly, Costa Rica has always advocated the effective implementation of the guarantees established in Articles 31 and 32 of the United Nations Charter, particularly when these guarantees involve or are related to a debate at a formal meeting of the Security Council to consider situations contemplated by and authorized under Articles 39 and 41 of Chapter VII of the Charter. This is also a strict position of principle of my country, in keeping with something that is an essential value of our democratic concept of international society and in strict compliance with the letter and, at the same time, the spirit of the Charter.

This being the case, this debate and this formal meeting constitute a step forward in what is a demand of all Member States regarding the necessary and vital transparency in the working methods and in the rules, both written and unwritten, of the Security Council. As we say this, Costa Rica cannot fail to note that, in this way, the sole winners are the legitimacy and the international legality represented by the United Nations Charter.

Therefore my country is pleased that this formal meeting of the Security Council is taking place. Libya and any other State subject to a sanctions regime, as well as the other parties that are legitimately concerned or affected by any international dispute, have the right to present their own argumentations concerning the facts, their own legal reasoning and their own defence. For its part, the Security Council and the sanctions Committees, within their own purview, have the legal, ethical and political obligation to hear them and to reflect upon and analyse objectively their arguments and reasoning in order to take a decision in full consistency with their lofty and very serious responsibilities established in Chapter VII of the United Nations Charter.

My country attaches the utmost importance to and recognizes the seriousness of the substantive arguments and the legal assertions of the United Kingdom and the United States in connection with the criminal terrorist attack on Pan Am flight 103, and the same applies to UTA flight 772 and the position of France.

We have said, and we want to reiterate, that under no circumstances can we forget that at the origin of this sanctions regime are two unjustifiable criminal terrorist acts committed against two commercial flights that took the lives of 441 innocent people and caused pain and suffering to thousands of relatives. These two ignominious acts are unprecedented in the history of civil aviation and constitute an attack on the values of civilized human coexistence. In the face of the gravity of these acts, the international community, represented by the United Nations, must take a clear and unequivocal stance so that the criminals are tried and justice is done. Any other attitude would constitute unacceptable complacency regarding international terrorism.

The minute of silence that we observed in this Chamber was a way of reaching out to and showing respect for the victims and their family members, but at the same time, it was a firm expression of that determination on the part of the Security Council.

During the informal consultations held a few days ago, in reviewing the terms of the sanctions established in resolutions 748 (1992) and 883 (1993), the Security Council, although it noted some progress in the situation and took note of new facts that must be considered and evaluated objectively, concluded unanimously that the sanctions regime imposed on Libya must be maintained and extended for another 120 days. That is Costa Rica's substantive position.

At this formal meeting we have listened with the greatest attention to the substantive arguments and legal viewpoints of the Minister for Foreign Affairs of Libya. Likewise, for some days now we have been considering and studying the two Judgments of the International Court of Justice of 27 February in connection with the Montreal Convention and its possible implications in this case. In addition, as an important reference document, mention must be made of the report of Mr. Dumbutshena and Mr. Schermers regarding the Scottish judicial system, dated 18 December 1997.

My country attaches great importance to the views of the Organization of African Unity, the League of Arab States and the Non-Aligned Movement. Likewise, we will be listening with the utmost attention to the views and opinions of all States that take the floor at this meeting of the Security Council in accordance with their indisputable right under Article 31 of the Charter.

All these views must be analysed carefully. In particular, the analysis of the actual scope of the recent Judgments of the International Court of Justice on procedural aspects, and not on the substance of the dispute, is undoubtedly a legal element that will have implications for the further review that will have to be conducted by the Security Council in the coming months under the agreed terms.

It is also necessary to point out that the Government of Libya, with the support of the Organization of African Unity, has submitted for the consideration of the international community a number of jurisdictional options, and this is undoubtedly an element of objective importance. My country, which has emphatically indicated that it fully recognizes the jurisdiction of the Scottish courts as the natural and logical framework in which these tragic and criminal events must be judged, nonetheless recognizes that this willingness on the part of the Libyan authorities must be taken into account, and that perhaps through this channel and with the support of the Secretariat, it may be possible to specify, develop and elaborate a constructive dialogue in order to resolve the substantive problem of jurisdiction and the relevant laws.

In any event, the existence of all these elements and the holding of this formal meeting of the Security Council demonstrate that we could be emerging from the stagnation of the past several years and that it may not be overly optimistic to think that through dialogue and diplomatic negotiation solutions can be found in order to make progress and achieve the essential objective of these sanctions, which is only to subject the alleged criminals to the rule of law and thus to do justice to the innocent victims of the terrorist attack at Lockerbie and of the UTA flight over the Niger. My country once again expresses its complete willingness to cooperate fully for the attainment of this objective of the Security Council.

The President: I thank the representative of Costa Rica for the kind words he addressed to me.

Mr. Lavrov (Russian Federation) (*interpretation from Russian*): Since the imposition of sanctions against Libya, the Libyan Government has made significant progress in responding to the demands of the Security Council. I refer primarily to the provisions of resolutions 731 (1992) and 748 (1992) regarding the problem of terrorism and the submission of information on this topic. Thanks to Libya's cooperation, the investigation into the incident involving UTA flight 772 has been successfully completed. The statement just made by the Minister for Foreign Affairs of Libya, Mr. Muntasser, stressed Libya's willingness to continue to cooperate with the United Nations. However, the resolutions of the Security Council have not yet been fully implemented. The situation regarding the Lockerbie case remains deadlocked.

The League of Arab States, the Organization of the Islamic Conference, the Organization of African Unity and the Non-Aligned Movement have put forward well-known initiatives for a compromise format for the holding of the trial of the two suspects. We feel that these initiatives are on the right track. The recent Judgments of the International Court of Justice about its jurisdiction provide additional material for an analysis of the legal aspects of the Lockerbie case. We call upon the parties to show maximum goodwill to find mutually acceptable solutions regarding the question of the format for the trial.

The Security Council and the United Nations as a whole have repeatedly proven their ability to seek compliance with United Nations decisions by showing firmness on the substance of their demands and flexibility in the methods of attaining the goal. A speedy resolution to the Lockerbie case would be of great importance for United Nations efforts in combating the scourge of terrorism, which the Russian Federation is constantly committed to eradicating.

The families of those who perished in the skies over Lockerbie, whose memory we honoured today in our minute of silence, also await the trial for justice. We pay tribute to the patience of the relatives of the victims of the catastrophe and reiterate to them our most profound sympathy. Nor should we forget the people of Libya, who for many years now have suffered under sanctions. Russia has consistently held that sanctions are not an aim in themselves, nor are they a weapon to punish unpalatable regimes, but a means to support political efforts aimed at attaining a settlement of a given conflict. The process of imposing, implementing, easing and, if necessary, tightening sanctions should be closely and flexibly linked to the political process. Unfortunately, in the Lockerbie matter, this is not the case.

The serious humanitarian consequences of sanctions for the Libyan people are attested to by the recent report on the results of the mission of the Under-Secretary-General, Mr. Petrovsky, which indicates, at least to us, the need to create humanitarian exemptions to the sanctions regime. The consideration of this report in the sanctions Committee, started on the instructions of the Security Council, should lead to the elaboration of recommendations on measures to reduce the negative humanitarian consequences of sanctions, particularly in the light of the serious damage done to the public health system, including to the supply of medicines and provision of medical assistance to the people as well as to the services sector and to agriculture.

The Russian delegation believes that the findings of the report give sufficient grounds now to discuss the adoption by the Security Council of humanitarian exemptions to the sanctions regime. Primarily, we might consider a simplified plan for medical evacuation according to the simple notification procedure, given the fact that in the receiving countries there is a well-honed system which monitors medical flights from Libya.

It is high time to replace the four aging Libyan planes authorized for medical evacuation purposes, as their use poses a serious threat to the safety of the flights. Restrictions should also be lifted on the import of spare parts for agricultural aircraft, which is necessary for supplying food to broad strata of the civilian population.

One of the most striking examples of the need for humanitarian exemptions, and not only in the case of Libya, are the pilgrimage flights. Given the approaching Hajj season, this step would emphasize the willingness of the Security Council to respect religious feelings and respond to the specific humanitarian needs of the population of individual States under a sanctions regime. The recently issued sanctions Committee press release contains the obligation of the members of the Committee to consider all these questions. This obligation must be complied with.

The Security Council must give an adequate reaction to the positive steps already undertaken by Libya to comply with the appropriate decisions of the United Nations. While appealing again to the parties to speedily attain a compromise on the basis of the Security Council resolutions, we are, at the same time, in favour of the immediate entry into force of the humanitarian exemptions I listed before. We hope that all our partners will be prepared to work constructively in this area, both within the Council and in the sanctions Committee.

The President: I thank the representative of the Russian Federation for his kind words addressed to me.

Mr. Qin Huasun (China) (*interpretation from Chinese*): The Chinese delegation welcomes the Security Council's open meeting today to consider the question of Libya. We also would like to welcome the Foreign Minister of Libya to our meeting. We have listened to his statement carefully.

The Security Council is the main United Nations organ for maintaining international peace and security. Since the Council acts on behalf of the entire membership, in accordance with the Charter, it should listen to the broad range of views of Member States while deliberating on the question of Libya. This meeting is a good opportunity for the Council to do that.

The Chinese Government's position is clear cut. China is opposed to terrorism in any form and is of the view that terrorists should be brought to justice. The tragic accident over Lockerbie resulted in the death of innocent passengers and inflicted agonizing pain on their families, who have our deepest sympathy. The priority now is to settle the case in a prompt and proper manner because this will be beneficial to all parties concerned, including families of the victims.

The key to resolving the Lockerbie case is for the parties concerned to agree at an early date on the venue and method of the trial of the two suspects. In this regard, we are pleased to note that the League of Arab States and the Organization of African Unity (OAU) have put forward three options concerning questions about the trial. Libya has agreed to the trial by Scottish judges at The Hague in accordance with Scottish law. We support these proposals, which are constructive and reflect the flexibility of the parties concerned. We hope that other parties will also show flexibility by responding to these proposals and moving to resolve the Lockerbie question through negotiations as soon as possible.

We have taken note of the recent decision of the International Court of Justice to accept the Lockerbie case. This is a positive decision. We support the settlement of the issue through peaceful means, including legal procedures.

The sanctions against Libya have brought untold suffering to the Libyan people, especially to the women and children. They have undermined the development of Libya and have affected the economic development of third world countries. We are gravely concerned about the adverse effects of the sanctions. Facts have proven that sanctions, rather than solving the problem, only aggravate matters. In our view, they should be lifted as soon as possible.

We support the reasonable request raised by the League of Arab States and the OAU on numerous occasions to lift the sanctions against Libya at an early date. The League of Arab States, the OAU and other Member States will address the Council today. We are convinced that their opinions will help the Council in making a correct judgment and decision in its future deliberations on the question of Libya.

The Secretary-General recently sent a fact-finding mission to Libya to look into the negative impact of the sanctions. This is very useful. The mission report is essentially an accurate account of the situation there. We are of the view that the Security Council and its sanctions Committee should consider it seriously and take measures to ease the situation.

Mr. Monteiro (Portugal): My delegation is very pleased to see you, Sir, presiding over our debate here today.

Let me begin by paying my profound respects to the families of the victims of the bombings of the Pan Am and UTA flights, who are still waiting for justice to be done. We must not forget the reason why measures were imposed on Libya by the Security Council nor their goal of delivering justice to those directly affected by those horrendous acts. The Council measures remain in force because Libya has not yet complied with its obligations under the relevant Council resolutions by submitting to the appropriate jurisdiction the two individuals accused of those crimes.

My delegation welcomes the fact that this problem is being discussed here at this open debate of the Security Council, permitting all United Nations Members to express their views on the matter.

Portugal supported this initiative from the very beginning. We believe that it is not only an effort to enhance the transparency of the working methods of the Council and its democratic exposure to the views of the general membership of our Organization. More importantly, we believe that it is also a way of contributing to a better general understanding of the matter under consideration. Furthermore, we also believe that it is an appropriate manner of allowing Libya itself to put forward its position before the Council as, according to the Charter, it is entitled to do.

The crux of this question — which should not be seen as a dispute between Libya, on the one hand, and the United Kingdom and the United States of America, on the other — lies in the fact that Tripoli has so far refused to surrender the two Libyan citizens suspected of the bombing of Pan Am flight 103 to a trial in a United Kingdom or a United States court, as demanded by the relevant Security Council resolutions. Therefore, this is a confrontation that pits Libya against the Security Council.

We have considered all the arguments put forward by the Libyan authorities and, in particular, we listened attentively to the statement made here today by the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya. In this respect, my delegation would like to make the following remarks.

While we register and welcome the concern shown by the Libyan authorities for the human rights of the two suspects, we cannot accept the argument that a Scottish court does not offer guarantees of impartiality and fair trial. According to the conclusions of the report on the Scottish judicial system submitted by the representatives of the Secretary-General sent to Scotland, Mr. Dumbutshena and Mr. Schermers,

> "the accused would receive a fair trial under the Scottish judicial system. Their rights would be protected ... in accordance with international standards. The presence of United Nations and other international observers can be fully and easily accommodated." [S/1997/991, p. 15]

We note that the British authorities have already indicated that they will accept international observation of the trial.

Furthermore, we would like to point out that the human rights of the suspects are doubly guaranteed in a trial in Scotland, since a decision by a British court is subject to the control of the European Court of Human Rights in Strasbourg, under the European Convention on Human Rights.

Based on the recent decisions of the International Court of Justice, Libya claims that the Security Council should suspend its own resolutions on this matter. We have carefully studied the Court's decisions and have come to the conclusion that these decisions change nothing on the substance of the matter. They merely address preliminary, procedural questions and do not decide on the merits of the case. And, obviously, they do not question the validity of the relevant resolutions of the Security Council. My delegation thinks that the Council and the entire United Nations membership cannot, evidently, accept these claims by Libya.

We all know that sanctions are a means of pressure to compel States to abide by international law and fulfil their obligations, as required by Security Council resolutions. But we also believe that these sanctions are hurting everyone in Libya, both economically and psychologically, and are not just targeted at those who are responsible for Libya's refusal to comply with Security Council demands.

The report of the fact-finding mission sent to Libya by the Secretary-General, headed by Director-General Petrovsky — and we thank the Secretary-General for this initiative and Mr. Petrovsky and his team for the mission they undertook — reflects the fact that the Libyan people are being affected by the sanctions regime. But the report also shows that the Libyan authorities are not making use of the appropriate mechanisms established by the Council and the sanctions Committee to address the consequences of the sanctions, namely, those affecting vulnerable groups or the health sector. Paragraphs 7 and 11 of the report are very clear in this respect.

I take this opportunity to acknowledge the determination of the sanctions Committee on Libya to continue to pay special attention to all humanitarian issues arising under the relevant Security Council resolutions and to respond promptly to requests for humanitarian exceptions within the scope of its authority. My delegation will spare no effort to support the activities and decisions of the Committee in this regard.

Portugal has noted the proposals put forward by the Organization of African Unity and the League of Arab States, which are certainly meant to be a constructive political effort to find a compromise solution which will delay justice no longer and will put an end to the suffering of the Libyan people. But any compromise solution must not, in our view, depart from the crucial legal and political aspects enshrined in the relevant Security Council resolutions. This is clearly what international law demands. And Libya, like any other United Nations Member, must comply with it.

Like others, we believe that, indeed, justice delayed is justice denied — first of all, to the relatives of the victims who have suffered the loss of their loved ones. Justice delayed is justice denied also to the international community, which is defending itself against terrorism and upholding international law. Finally, justice delayed is justice denied also to the innocent people of Libya, who are enduring sanctions imposed on their country and are thus kept as hostages to the will of those two individuals accused of terrorism who refuse to surrender to trial.

The time has come for the United Nations, and the Security Council in particular, to think of more efficient ways to bring Libya into compliance. In this context, Portugal believes that the Secretary-General's assistance can be of great value.

My delegation is aware of the positive statements and steps undertaken by Libya regarding the repudiation of terrorism in all its forms. We welcome the cooperation which the Libyan Government has extended to the French and British judicial authorities in this regard. These steps should ultimately lead to the full cooperation that the Council is seeking from Libya.

Portugal joins other voices here today that appeal to the Libyan authorities to cooperate fully with the Council and to fulfil their obligations promptly. This is the way to render justice to the families of the victims; the way to ensure a fair trial for the accused themselves; and also the way to enable the Council to lift the sanctions affecting the Libyan people.

The President: I thank the representative of Portugal for his kind words addressed to me.

Mr. Mahugu (Kenya): At the outset, let me take this opportunity to recognize the presence of the families of those who perished in the tragic destruction of Pan Am flight 103 over Lockerbie, Scotland, on 21 December 1988. Their presence here today is a telling reminder of the work we still have to do to truly lay the souls of their loved ones to rest in peace. I sadly recall the statement of condolence my Government issued on behalf of all Kenyans during that time of pain, and today I can still, with a heavy heart again, convey to them these genuine expressions of sorrow.

This debate today affords us an excellent opportunity to look again at what needs to be done to ease the pain that the families of the bereaved must be feeling. We think that much has been said in the past and much will continue to be said. But we need to look into the future and act — act with a resolve tempered by the reality that our decisions will affect the lives of the bereaved families and the innocent people of Libya suffering under the unyielding heel of sanctions. We are honoured in this connection to recognize the presence in our midst of Mr. Omar Muntasser, the Foreign Minister of Libya.

We have listened carefully to the views and positions presented to us by previous speakers. The impressive eloquence outlining known positions, juxtaposed against the silent presence of the bereaved families and the unheard cries of sick children in Libya, convinces my delegation even more that the time for rhetoric is over and that the time for a genuine and soul-searching give-and-take has come.

Fourteen days ago, when the Security Council reviewed the sanctions imposed on Libya by Security Council resolution 748 (1992), the Kenyan delegation tried to balance the two competing but equally important realities in this case. On the one hand, an act of terror was committed causing immense anguish and suffering to many people, but especially to the families of the victims of that tragic incident. On the other hand, we have in place a sanctions regime designed to bring the culprits to book but which has failed to do so. The time may have come to take stock of how much has been achieved in real terms since the sanctions were imposed.

Kenya firmly believes that the families of the victims must be allowed to put this tragedy behind them, with the perpetrators of this terrorist act being brought to book, and must receive complete restitution too. We also firmly believe that the innocent people of Libya, who had nothing to do with this heinous crime and who have nothing to do with the current impasse, should be relieved of the suffering the sanctions have caused them.

In this regard, we commend the skilful work being done by the Chairman of the Libya sanctions Committee, Ambassador Danilo Türk of Slovenia. By drawing on elements of the now well-known Petrovsky report, which is a result of the Secretary-General's fact-finding mission to assess the humanitarian impact of sanctions on the people of Libya, Mr. Türk has begun to make progress. We think that the Petrovsky report, taken together with existing studies by United Nations agencies and other international organizations, is a useful framework for addressing the impact of sanctions. We urge the Chairman to continue working expeditiously to achieve more progress.

How can we move this process forward? We need to do so quickly so that we do not delay justice, bearing in mind that justice delayed is justice denied. There is no one single simple answer. We are faced with a very complex legal and political issue. We believe that we can work together to find a way to address this very tragic issue.

All has not been in vain; there have been some positive results. The Government of Libya has responded positively to some of the demands made of it by the international community. Security Council documents refer to two such cases, cooperation on the Irish Republican Army matter and cooperation on the UTA 772 incident. On the outstanding issues, recently there have been attempts by several organizations which have offered various options towards resolving this problem. The League of Arab States came up with options which were supported by the Organization of African Unity (OAU), the Organization of the Islamic Conference and the Non-Aligned Movement.

The Harare Declaration of June 1997, issued following the thirty-third ordinary session of the Assembly of Heads of State and Government of the Organization of African Unity recommended three options. The first option is to try the two suspects in a third, neutral country to be determined the Security Council; the second is to have the suspects tried by Scottish judges at The Hague in accordance with Scottish law; and the third is to establish a special criminal tribunal at the International Court of Justice to try the two suspects.

On 27 February 1998 the Council of Ministers of the Organization of African Unity at its sixty-seventh meeting urged the States concerned

> "to take specific action to ensure a rapid and definitive settlement of the dispute"

and appealed to the Security Council to lift as a matter of urgency the sanctions imposed. Kenya reiterates this urgent appeal to resolve this impasse.

Coincidentally, the International Court of Justice ruling on one aspect of this matter was read on the same day, 27 February 1998. This may be a good omen portending an amicable and lasting solution to this matter.

The Judgment held that there was a dispute relating to the Montreal Convention which could be decided by the Court. The Court said that both the jurisdiction of the Court and the admissibility of any claim must be determined at the moment Libya's claims were first filed. We realize that if any changes are to be introduced to the conditions originally set by the Security Council, they must be acceptable to all the parties to the dispute. However, this may not be the case: there are two interpretations.

The first view is that the Judgment was on preliminary jurisdictional issues, with the Court not having pronounced itself on the merits of Libya's claims in any way. The Court held that it had jurisdiction to determine, under the Montreal Convention, whether the two Governments' demands for surrender of the accused were or were not in breach of Libya's rights under that Convention.

The second and opposing view is that there is a dispute between the parties in this case on the interpretation and application of the Montreal Convention, and that the Court has jurisdiction over the dispute on the basis of article 14, paragraph 1, of the Convention.

As a member of the OAU and having fully participated in the deliberations that formulated the OAU position, we strongly feel that that position provides clear options for resolving the stalemate that we are faced with today. We urge the States directly involved in this dispute to give serious and urgent consideration to the proposals put forward by the OAU and other regional bodies. In this regard, we wish to re-emphasize the need for the parties directly concerned to take specific action to ensure a rapid and definitive settlement of the dispute. Frankly, we are encouraged by the tone of the views expressed here today and hope that a positive dialogue is not too far away.

I conclude, as I began, by embracing the sorrow of the bereaved families and empathizing with the suffering of the innocent people of Libya, who committed no crime but are hurting nonetheless.

The President: I thank the representative of Kenya for his kind words expressed to me.

Mr. Buallay (Bahrain) (*interpretation from Arabic*): Since the two terrorist attacks on an American and a French civilian aircraft in 1988 and 1989, Libya has suffered from sanctions imposed on it by the Security Council under resolutions 731 (1992), 748 (1992) and 883 (1993) on the grounds that two of its nationals were suspected of committing the attacks.

The first resolution asks Libya to cooperate in establishing responsibility, while the second refers to the well-foundedness of the sanctions, calling on Libya to renounce terrorism. The third asks Libya to hand over the two suspects to the judicial authorities of the United States, the United Kingdom and France.

The third resolution also decides that the sanctions should be reviewed every four months. The sanctions include prohibition of civilian flights abroad, freezing of Libyan assets, imposition of diplomatic restrictions and a prohibition on the export and import of certain articles and items of equipment, excluding oil and related products.

It is clear that the two terrorist attacks are a criminal matter that only a court can decide, but the Security Council decided to deal with the issue on its own, feeling that, as the sixth preambular paragraph of resolution 883 (1993) indicates, that this matter was a threat to international peace and security. This opinion was not shared by Libya, which brought the matter before the International Court of Justice for a decision.

Despite the objections raised by the other parties and despite the fact that sanctions had been in place since the adoption of resolution 748 (1992), the International Court of Justice, on 27 February 1998, handed down a Judgment declaring itself competent, under the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, to have jurisdiction. This Judgment by the International Court of Justice is, of course, a procedural Judgment. But, like any other tribunal, this Court takes a decision first on its competence and then considers the substance of a matter. Since its Statute is an integral part of the Charter of the United Nations, and since it is the judicial organ of this Organization, as provided under Article 92 of the Charter, the fact that it decides on competence gives a new turn to the issue that is now before us. This places the matter once again in the hands of the authority that is in the best position to decide on it.

The three resolutions of the Security Council are thus political in nature, while the Judgment of the Court is judicial in nature and the latter has characterized the dispute as a judicial one rather than a political one. Therefore, the Security Council would have been expected to take into account this new and logical turn that the situation has taken when it conducted its eighteenth review of sanctions on 6 March last. Unfortunately, this was not the case, in spite of the five years and 351 days elapsed since the sanctions were imposed on Libya.

The Judgment of the International Court of Justice, which confirms its competence in this connection, logically requires that the Security Council consider the suspension of sanctions, at least until the Court takes a decision on the substance of the matter. The harmful effects of these sanctions in the long term have begun to be felt by the Libyan people in spite of Libya's oil riches. We can even go so far as to say that in spite of the presence of these riches, the Libyan authorities are completely unable to ensure air transport for their pilgrims or to ensure the emergency evacuation of sick people who need immediate health care abroad. And this, of course, has a considerable psychological effect on the population.

By way of evidence, I might mention paragraph 15 of the report of Mr. Vladimir Petrovsky, who was sent by the Secretary-General of the United Nations to conduct a fact-finding mission to Libya from 13 to 18 December 1997. This paragraph refers to the psychological effects of the sanctions:

> "It was apparent that the sanctions had a psychological effect on the Libyan leadership. It feels isolated, targeted and unjustly subjected to a form of collective punishment even before the guilt or innocence of the two suspects had been established through an appropriate judicial process. The Libyan officials underscored that the stigma of a rogue State was hurting the people at large, and the damage to national pride has been grave. They noted that the psychological impact also constrained other countries from dealing with the Libyan Arab Jamahiriya in areas outside the purview of the

> sanctions. They also seemed perplexed that the initiatives and alternatives proposed by the Organization of African Unity and the League of Arab States, among others, to facilitate a resolution of the problem were not accepted by the Security Council." *[S/1998/201, annex, para. 15]*

Even before the International Court of Justice handed down its Judgment, which pointed to the normal framework for resolving this problem, many international and regional initiatives had taken that direction. But when the Court declared itself competent, these initiatives were stepped up, and in fact 21 letters were addressed to the President of the Security Council on this subject.

As for the substance of the issue, not only does this matter come under the purview of the Montreal Convention — hence the International Court of Justice's decision that it is competent to hear the case — but other regional and international organizations, such as the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement, also submitted the following three options, which take into consideration the rights of all parties: first, to hold the trial of the two suspects in a neutral country to be determined by the Security Council; secondly, to have the two suspects tried at the International Court of Justice by Scottish judges in accordance with Scottish law; and thirdly, to establish a special criminal tribunal at the Court's headquarters at The Hague to try the two suspects.

These are the options that will undoubtedly make it possible rapidly to take a decision on this matter. They will help shed light on the entire matter for the benefit of the families of the victims and in connection with lifting the sanctions on Libya. These options also ask Libya to cooperate and to respond favourably, in accordance with Security Council resolution 731 (1992). Since the other two resolutions — 748 (1992) and 883 (1993) — imposed sanctions after the matter was brought by Libya to the International Court of Justice and not before, they are not justified.

My delegation believes that the Security Council must re-examine the sanctions decreed against Libya because of the new factors in the case: the Judgment handed down by the International Court of Justice and the options submitted on this matter, which is legal in nature and not political. The Council should respond by decreeing a suspension of these sanctions until a ruling is handed down.

As for the travel of Libyan nationals to fulfil their religious obligations or to receive medical care abroad, neither the principles of monotheistic religions nor humanitarian considerations can tolerate any obstacle. That is why it is difficult to approve of the current procedures of the sanctions Committee, which consist of examining requests on a case-by-case basis. Rather, it is necessary to completely exempt pilgrimage and medical care from these sanctions. Any believer must turn to God and God alone in order to fulfil religious obligations, and no believer can compromise on his or her health, because without health, nothing is possible in this world.

The President: I thank the representative of Bahrain for the kind words he addressed to me.

Mr. Owada (Japan): The Security Council, at one of its information consultations on 6 March 1998, concluded the eighteenth review of the sanctions imposed on Libya in accordance with paragraph 13 of resolution 748 (1992). While it was concluded as a result of this review that there was no agreement for modifying the sanctions regime on Libya, it was at the same time decided that the Council would hold a formal meeting today on the question of Libya. Japan welcomes this formal meeting, which provides an opportunity for Member States to express their basic views on this question at this juncture.

As a starting point, the Government of Japan wishes to restate its basic position regarding the cases of the destruction of Pan Am flight 103 and of UTA flight 772 and then to proceed to present its views on the current state of the problems in the context of the actions taken by the Council, as well as of the recent decisions made by the International Court of Justice.

On 21 December 1988, Pan Am flight 103 exploded and crashed over Lockerbie in Scotland. There were 270 victims, which included a Japanese national. On 19 September 1989, another incident, in which UTA flight 772, flying over the Niger, was the victim, resulting in the tragic deaths of 170 people. These cases have been deemed to be the result of abominable criminal acts that should deserve our strongest condemnation. My delegation would like to take this opportunity to express its sincere condolences to the families of the victims of these two tragedies.

The Government of Japan, through the official spokesman of the Foreign Ministry on 3 December 1991, made a public statement condemning these acts and called upon the Libyan Government to cooperate fully with the investigation of the destruction of Pan Am flight 103 in response to requests from the Governments of the United Kingdom and of the United States. The statement further declared that Japan was absolutely opposed to any form of terrorism and that if this tragedy were revealed to be a result of terrorist acts, it must denounce such acts strongly. On the same day the Government of Japan conveyed this message on the case to the Libyan Government through the representative of Libya in Tokyo. Since then this call of the Japanese Government for Libyan cooperation has repeatedly been conveyed to the Libyan Government on a number of occasions, both prior to and after the adoption of Security Council resolution 731 (1992) on 21 January 1992. These Japanese calls upon the Libyan Government have been made in compliance with paragraph 5 of that resolution.

In sum, the basic position of the Japanese Government on this case is that the issues arising from the two incidents have to be resolved through bringing the culprits of these acts to justice and through intensified efforts by the international community to eliminate international terrorism.

Since the occurrence of these tragic incidents, the Security Council has taken a series of actions on behalf of the international community in an effort to tackle the issues arising from these incidents in accordance with its primary responsibility for the maintenance of international peace and security under the Charter. These actions are an important part of the united effort of the international community to suppress international terrorism and to pursue justice. Thus, on 30 December 1988 the President of the Security Council made a statement strongly condemning the destruction of Pan Am flight 103 and calling on all States to assist in the apprehension and prosecution of those responsible for this criminal act. Then, on 21 January 1992, the Council adopted resolution 731 (1992) expressing the Council's deep concern over acts of international terrorism and illegal activities directed against international civil aviation, and urging the Libya Government

> "immediately to provide a full and effective response" [resolution 731 (1992), para. 3]

to its obligations under that resolution.

Unfortunately, the Libyan Government did not provide a full and effective response to the requests in resolution 731 (1992). Under these circumstances, the Security Council, in adopting resolution 748 (1992) of 31 March 1992 determined

> "that the failure of the Libyan Government to demonstrate by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests of resolution 731 (1992) constitute a threat to international peace and security". [resolution 748 (1992), seventh preambular paragraph]

The Council decided to take sanction measures under Chapter VII of the Charter of the United Nations.

The intention of the Council in adopting that resolution was to try to encourage the full and effective response of the Libyan Government to the requests in resolution 731 (1992) so that international terrorism could be suppressed and justice made to prevail. However, the Libyan Government continued to fail to fulfil its obligations, and the Security Council had to take further measures by adopting resolution 883 (1993) of 11 November 1993.

It should the noted that the Council, by paragraph 13 of resolution 748 (1992), had taken steps to review the situation every 120 days or sooner and has since faithfully undertaken 18 sanction reviews. In this context, I wish to note that some developments have taken place since the adoption of resolution 731 (1992) to the extent that the Libyan authorities have responded to the requests for cooperation in the judicial inquiry regarding UTA flight 772. The Government of Japan hopes that the Libyan Government will also respond fully and effectively to its other obligations under resolutions 731 (1992) and 748 (1992).

The humanitarian need of the Libyan people is an important factor to which it is appropriate for the Security Council to give consideration in applying these sanctions. In accordance with paragraph 9 of resolution 748 (1992), the Committee of the Security Council on sanctions on Libya has regularly authorized flights for the travel of Libyan pilgrims. The Committee has also authorized flights for medical evacuation on the basis of the agreed guidelines. The Committee has recently been considering requests from the Libyan Government regarding the air-worthiness of the Libyan aircraft designated to undertake medical-evacuation flights as well as regarding additional destinations for medical-evacuation flights. Furthermore, the Committee has been considering the report of the fact-finding mission to Libya headed by Mr. Vladimir Petrovsky, Director-General of the United Nations Office at Geneva. As a member of that Committee, Japan will continue to pay special attention to the humanitarian dimensions of the sanctions and to consider favourably requests for humanitarian exceptions under resolution 748 (1992).

A new factor to be examined in the context of this Libyan case is the recent decisions by the International Court of Justice, delivered on 27 February 1998. These are decisions of the Court on the preliminary objection to its jurisdiction raised by the United Kingdom and the United States in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie*. In these decisions the Court, in effect, rejected these preliminary objections and found that it had jurisdiction — on the basis of article 14, paragraph 1 of the Montreal Convention — to hear the cases brought by Libya against the United Kingdom and the United States concerning the interpretation or application of the provisions of that Convention. It must be clearly kept in mind, however, that these judgments concern exclusively the jurisdictional phase of the case and do not deal with the merits of the case regarding the destruction of Pan Am flight 103. In the light of the legal nature of these decisions, it is the considered view of the Government of Japan that they cannot prejudice the power of the Security Council on an issue of which the Council has been legitimately seized.

It is the earnest hope of the Government of Japan that the Libyan Government will comply with the relevant resolutions promptly so that the facts regarding the destruction of Pan Am flight 103 can be established as soon as possible. Such cooperation for compliance, together with the definitive and concrete commitment by the Government of Libya to the renunciation of terrorism, will go a long way towards restoring the faith of the international community in Libya and towards lifting the sanctions imposed by the Security Council upon it.

The President: I thank the representative of Japan for the kind words he addressed to me.

Mr. Türk (Slovenia): I wish to begin by acknowledging the presence of relatives of victims of the tragedy over Lockerbie. Our delegation wishes to take this opportunity to express to them our sincere condolences. Their presence today represents yet another reason for our awareness of the ethical implications of the work of the Security Council.

More than nine years have passed since the bombing of Pan Am flight 103 over Lockerbie. However, the perpetrators of that horrendous crime continue to elude justice. This gives rise to serious concern. Every effort must be made to ensure that justice is done.

This Council has on numerous occasions expressed its determination to eliminate international terrorism. Slovenia shares this determination. The plague of international terrorism continues to be among us, and the Lockerbie case has been one of the most dreadful manifestations of that. We hope, therefore, that today's debate will reinvigorate our common commitment to combat all forms of terrorism. We should send a renewed and clear message that this Council will not rest until terrorism is eliminated and until the perpetrators of terrorist acts are brought to justice.

On 27 February this year the International Court of Justice issued two Judgments concerning the aerial incident at Lockerbie. We are aware of the different interpretations of these Judgments, in which the Court decided on the preliminary objections in the cases between Libya and the United States, and Libya and the United Kingdom.

Judgments on preliminary objections generally address the questions of jurisdiction and admissibility of cases brought before the International Court. As such they most often do not represent the final word of the Court; that is done only once the Court has pronounced its judgment on the merits. This is also the situation in regard to the two cases on which the Court pronounced its judgment on preliminary objections on 27 February this year.

In addition to this very basic observation, it might be useful today to clarify some of the aspects of the relationship between the two principal organs of the United Nations, the Security Council on the one hand and the International Court of Justice on the other, when they are engaged in dealing with different aspects of a given situation. The Charter has envisaged such possibilities, which sometimes do occur in practice.

In general, such situations occur as a result of the fact that international issues often have both political and legal aspects. It is not impossible that the former should be addressed by the Security Council and the latter by the International Court of Justice. It must be remembered that, in its jurisprudence, the Court has never shied away from a case brought before it merely because it had political implications. The Court demonstrated an active approach in such a situation as early as 1949 in the Corfu Channel case, in the *I.C.J. Reports 1949*, page 4. In that case, however, the Security Council undoubtedly intended that the whole situation be dealt with by the International Court, as stated on page 26 in the same volume. In other words, this was a rather particular and special case.

In most other situations where the Security Council and the International Court of Justice addressed the same events, the approach was different. In the United States diplomatic and consular staff in Tehran case the Court held that both proceedings could be pursued *pari passu*:

> "it does not seem to have occurred to any member of the Security Council that there was or could be anything irregular in simultaneous exercise of their respective functions by the Court and the Security Council."

This is a passage from the *I.C.J. Reports 1980*, page 21, paragraph 40.

More recently, in 1986 the Court addressed the question of simultaneous proceedings in the contentious context of the preliminary objections of the United States of America in the case concerning military and paramilitary activities in and against Nicaragua. In that Judgment on the preliminary objections, the Court explained that the Charter confers primary and not exclusive responsibility upon the Security Council for the purpose of the maintenance of international peace and security. The Court then continued,

> "The Council has functions of political nature assigned to it whereas the Court exercises purely judicial functions. Both organs can therefore perform their separate but complementary functions with respect to the same events."

This is a quotation from the *I.C.J. Reports 1986*, pages 434 to 435, paragraph 95.

I quoted these few examples in order to demonstrate that the situations of parallel pursuit of the separate but complementary functions of the International Court of Justice and the Security Council are not new. There is no conflict of jurisdiction involved. The Charter requires of those who interpret and implement it to keep this in mind and refrain from interpretations by which activities of either of these two principal United Nations organs would prejudge the exercise of functions of the other. This is of paramount importance for the functioning of the United Nations system.

The International Court of Justice acted in conformity with this separation of powers when, in its Order of 14 April 1992, it rejected the Libyan request for indication of provisional measures.

Another aspect of the situation discussed today relates to the operation of sanctions imposed on Libya. By imposing sanctions against Libya, the Security Council employed a policy tool which has recently become the subject of increasing criticism. There is no doubt that sanctions should only last as long as necessary to achieve the desired results. Sanctions should be lifted as soon as possible, which means when the reasons for their imposition cease to exist. However, as long as this is not the case, the sanctions regime has to be observed.

One of the reasons sanctions are not popular is that they hurt innocent people. Any sanctions regime, therefore, has to provide for alleviation or, if possible, prevention of the negative humanitarian impact of sanctions.

In the case of Libya, the sanctions Committee has been involved in ongoing efforts to address the humanitarian issues arising under the relevant Security Council resolutions. The Committee has authorized specific exemptions, along with the necessary procedures, for emergency medical evacuations and pilgrimage flights. Currently, it is actively involved in the question of airworthiness of the Libyan aircraft designated for medical evacuations with the aim of ensuring that Libya has the means to perform safely and expeditiously the medical evacuation flights. We expect that the Committee will continue to consider various humanitarian issues and to respond promptly to specific and legitimate requests for exemptions.

We believe that this approach is correct and that it deserves the support of the Security Council.

Mr. Dahlgren (Sweden): Sweden welcomes this opportunity for an open and thorough debate in the Security Council on the tragic circumstances leading up to the Council's decision to impose sanctions on Libya.

The fundamental issue at hand, and the reason for the decisions taken by the Security Council in this matter, is the scourge of terrorism. International terrorism constitutes a threat not only to individual human lives, but also to international peace and security.

We must never forget the victims of the bombings of Pan Am flight 103 and UTA flight 772. On behalf of my Government, I wish to express my deepest sympathy to their families, some of which are with us here today.

There were also three Swedish nationals on board Pan Am flight 103. My country therefore has a particular interest in seeking clarity and justice in this matter. One of the victims was in the service of the United Nations. He also happened to be a personal friend of mine.

The sanctions on Libya remain in force as a direct consequence of the Libyan Government's continued refusal to cooperate fully in the efforts to seek clarity and justice in conformity with the relevant Security Council resolutions. More specifically, Libya has not complied with the Council's demands regarding the surrender for trial of two suspects in the Lockerbie case. In this context, we have noted the positive assessment recently made by independent legal experts appointed by the Secretary-General on the possibilities for the two suspects to receive a fair trial in Scotland. We note also that the United Kingdom has offered to allow international observers to attend such a trial.

The Security Council does not impose sanctions lightly. The aim must always be to obtain a specific result, not to punish a State or its people. Negative humanitarian consequences of sanctions should be minimized. In the case of Libya, the sanctions are designed to avoid humanitarian implications for the Libyan people. We have carefully studied the report of the recent United Nations mission to Libya. The sanctions Committee, a subsidiary organ of the Security Council, recently reiterated its willingness to continue to consider applications for special permission for humanitarian flights, including for religious purposes, as provided for in resolution 748 (1992). Sweden strongly supports this position in the sanctions Committee.

Sweden has studied carefully the various proposals put forward to find a solution to the current situation, which has a negative impact on both Libya and the international community at large. We will also take into consideration today's open and hopefully constructive debate. We will do so bearing in mind that Security Council resolutions must be fully complied with. It is our sincere hope that with full respect for this fundamental principle, it will soon be possible to find a solution to this matter.

Mr. Amorim (Brazil): Let me express to you, Mr. President, and to your Government our appreciation for organizing this open debate in a formal meeting of the Security Council. In a matter of such importance it is appropriate that we work in an open and a transparent way. Moreover, it is important that the party to a dispute, in this case Libya, may present its case to the Security Council. That is what is called for in Articles 31 and 32 of the Charter. So, by having this open debate, we are just doing the right thing.

The circumstances which bring us here today involve a complex blend of political and judicial elements which have been the object of controversial debate within and outside this Council. But we must not forget that at the origin of the situations considered by the Council, as in the present case, often lies human tragedy. This is why we would like to start by extending our sympathy to the bereaved families of the victims of the terrorist attacks against Pan Am flight 103 and UTA flight 772. The Brazilian Government has repeatedly stressed its condemnation of any kind of terrorist act for whatever reason, as well as its commitment to international cooperation to eradicate this scourge, and wishes to take this opportunity to underscore this position of principle.

The direct association between collective security and terrorism is relatively recent. Terrorism appeared explicitly in the context of the Security Council's responsibilities with regard to the maintenance of international peace and security in January 1992, in the presidential statement issued at the meeting of Heads of State or Government of Council members.

Two months later, resolution 748 (1992) determined that the Libyan refusal in cooperating with the Security Council in the establishment of responsibilities with regard to those acts constituted a threat to international peace and security. On that occasion, some members of the Council mentioned that since the issue at stake was one of a legal nature, the main judicial body of the Organization, the International Court of Justice, should have a role to play in order to decide what the applicable law would be. Some maintained that resort to Chapter VII at that stage was premature, since the means provided for in Chapter VI had not been exhausted. Others still considered that the imposition of sanctions would not help settle the question and, at the same time, would aggravate regional tension and have serious economic consequences for the countries in the area.

By bringing the issue to the Security Council, however, the Governments of the United Kingdom, the United States and France have demonstrated their faith in the multilateral system and, in particular, in this international Organization as a promoter of values which are essential to the cohesion of international society. They have also entrusted this political body with finding a generally acceptable solution to the matter.

A case has been brought by Libya to the International Court of Justice, the principal judicial organ of the United Nations. On 27 February the International Court of Justice decided that it had jurisdiction to entertain the claim as submitted by Libya and that that claim was admissible. That decision, whose preliminary character we stress, has nevertheless the non-negligible consequence that the merits of the Libyan application will be considered at the next stage of the process. On that occasion, the question of the applicability of the Montreal Convention to this specific case will be addressed. A ruling of the Court on this matter will inevitably have a bearing on how the Council assesses the conditions for Libya's compliance with the relevant resolutions.

In this connection, we find that some elements of Judge Kooijman's opinion to the International Court of Justice in the present case are worth mentioning:

> "Resolutions of the Security Council taken under Chapter VII of the Charter may have far-reaching legal effects, but they are not irrevocable or unalterable ... [T]he Security Council is free to confirm, revoke or amend them and consequently they cannot be called 'final' even if during their lifetime they may be dispositive of the rights and obligations of Member States, overriding rights and obligations these States may have under other treaties." *[S/1998/191, annex, p. 23, para. 17]*

It is also worth bearing in mind what Judge Rezek stated in his individual opinion:

(spoke in French)

> "Article 103 of the Charter is a rule for resolving conflict between treaties ... It resolves the conflict in favour of the Charter ... It is indeed the United Nations Charter (not a Security Council resolution, a General Assembly recommendation or a ruling of the International Court of Justice) which benefits from the pre-eminence established in this standard; it is the Charter, with all the weight of its principles, its system and its distribution of authority." *[ibid., p. 25, para. 2]*

(spoke in English)

It would be unwise at this stage to try to speculate on what the decision of the International Court of Justice will be. We would be prejudging and bringing political considerations to a matter that we want to see solved in the fairest and most legitimate way. In any case, the future judgment of the International Court of Justice will be a significant element to be considered by the Security Council in any decision referring to the present case.

The letters dated 20 and 23 December 1991, from France, the United Kingdom and the United States, request, among other things, that the Government of Libya surrender for trial all those charged with the crime. Resolution 731 (1992) urges the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism.

Recently a report submitted to the Secretary-General of the United Nations by Mr. Dumbutshena and Mr. Schermers on the Scottish judicial system concluded that the accused would receive a fair trial under the Scottish judicial system. The distinguished experts also pointed out that the idea of dispensing with the jury could be pursued in case the accused could reasonably establish that their right to a free trial would be prejudiced by a jury trial. We also took note of other alternatives which have been put on the table, and they have been mentioned here today.

Brazil hopes that the international community, with the cooperation of the Government of Libya, will be able to ensure that, in a fair and transparent way, the responsibility for those heinous acts will be finally established by means of a fair trial. If and once this responsibility is decided, the punishment of the culprits and the payment of adequate compensation to the families of the victims will allow this case to come to a closure.

Humanitarian aspects are specially important to any issue involving sanctions and, in this regard, we have welcomed the report of the fact-finding mission coordinated by Director-General Vladimir Petrovsky. The report touches on various relevant issues which are now part of the discussions, within the sanctions Committee, on the best way to cope with the humanitarian situation in Libya.

We believe that these discussions would greatly benefit from statistical data and verifiable information on the possible links between humanitarian difficulties in Libya and United Nations-imposed sanctions. This perception seems to find echo in the conclusion reached by the Inter-Agency Standing Committee which, in a statement dated 29 December 1997 on the humanitarian impact of sanctions, considered that

> "the Security Council ... would benefit from comprehensive information and objective analysis of the potential humanitarian impact of sanctions when deciding on the imposition of sanctions ... and from information on the evolution of the humanitarian requirements under a sanctions regime on a regular basis." [S/1998/147, para. 2]

We deem these reflections timely and positive and believe that the Security Council should follow this matter on a regular basis.

We have just proceeded to the eighteenth consecutive review of the sanctions against Libya. This is always a painful and complex exercise which demands careful attention from all Security Council members.

Brazil cast its vote in favour of resolution 883 (1993) five years ago. On that occasion we indicated our conviction that the imposition of sanctions must always be linked to the performance of limited, concrete and very specific acts that are essentially required by the decisions of the Security Council. Such acts must be specifically set out by the Council so that the State on which sanctions are imposed may be able to know in advance, and beyond all doubt, that the sanctions will be lifted as soon as those specific requirements are met. We reaffirm that conviction today.

The President: I thank the representative of Brazil for his kind words addressed to me.

Mr. Dangue Réwaka (Gabon) (*interpretation from French*): The world still remembers the explosion of a Pan Am Boeing 747 that occurred on 21 December 1988 over Lockerbie, Scotland. As soon as this tragedy was reported, Gabon expressed its heartfelt emotion and profound compassion to the cruelly bereaved families of the victims.

The investigations that were launched established the terrorist origins of the explosion of that aircraft and led to the identification of two suspects of Libyan nationality.

Consistent with its principles, Gabon firmly condemned this hateful act and reaffirmed the vital need to combat all forms of terrorism. Following the attack, the Security Council adopted and imposed sanctions against Libya.

Despite the firmness thus displayed by the Council, we must recognize that the most vulnerable sectors of the Libyan population have been punished more than those allegedly responsible for the criminal act. This, *inter alia*, is confirmed in the report of the mission sent to Libya by the Secretary-General.

The families of the victims, some of whom are among us here today, impatiently wait for justice to be done and reparations to be made. The current status quo serves neither their legitimate expectations nor the interests of justice. The time has therefore come to find a peaceful and lasting solution to this crisis.

In this respect, the options submitted jointly by the Organization of African Unity and the League of Arab States seem to us to be an acceptable compromise. They would require that the suspects be tried in a third and neutral country chosen by the Security Council; that the suspects be tried in accordance with Scottish law by Scottish judges at the International Court of Justice at The Hague; and that a special penal tribunal be established to try the suspects at the headquarters of the International Court of Justice at The Hague.

Mr. Dejammet (France) (*interpretation from French*): Allow me to say once again how honoured we are that you, Sir, are presiding over this debate. It is a useful debate. For almost seven years now, the Security Council has been seized by three Governments, including that of France, of the attacks against Pan Am flight 103 and UTA flight 772. Four hundred and forty people lost their lives in these attacks. We paid tribute earlier at this meeting to the victims, whose family members participated in that tribute. Following the investigations carried out by the competent authorities, the Governments concerned became convinced that Libyan nationals were involved in these acts, which clearly were terrorist acts.

In its first resolution on this matter, the Security Council urged the Libyan Government to provide a full and effective response to the requests for cooperation in order to establish responsibility for the two attacks in question. This request was not satisfied and the Council therefore decided in resolutions 748 (1992) and 883

(1993) to impose sanctions on Libya. These sanctions are tough but limited to specific areas. A Security Council Committee was established to authorize exemptions to the Councils proscriptions in order, in particular, to allow urgent medical evacuations and to accommodate the religious obligations of the Libyan population.

This debate is useful because, after so many years, it helps us recall the fact at the origin of the Council's decisions: the deliberate murder of 440 people chosen at random. Terrorism is a cruel and cowardly weapon. France has been its frequent victim and will fight it tirelessly.

Seven years after the adoption of the first resolution on these two attacks, this debate also allows us to assess the situation.

With regard to the UTA incident, the French Government, on 6 November 1997, transmitted to the Secretary-General of the United Nations the text of a letter addressed to the French Minister for Foreign Affairs by the Examining Magistrate, Mr. Jean-Louis Bruguière. In his letter, which was distributed as an official document of the Security Council, the Judge indicated that the investigations conducted following the attack led to the issuance of four international arrest warrants against Libyan nationals. Despite requests contained in resolutions 731 (192), 748 (1992) and 883 (1993), the Libyan authorities showed no real desire to cooperate with the French judiciary until 1996.

However, the French magistrate subsequently noted that in March 1996 the Head of State of Libya informed the President of France of his commitment to meet the French requests for judicial cooperation. In July 1996 magistrate Bruguière visited Libya, where he was well received by the competent judicial authorities and where he witnessed, under satisfactory conditions, the execution of international letters rogatory. The magistrate was thus able to deem that the judicial cooperation he obtained largely met the French requests, even though some were not met. This cooperation allowed him to put on record that significant progress had been made and to issue two additional arrest warrants for Libyan nationals. The way was therefore open for a trial *in absentia* of the six suspects. In due course, the Libyan authorities must bear all the consequences of a conviction of their nationals.

The Government of France believes that on the whole judicial cooperation with Libya has made it possible to progress towards establishing the truth in the UTA case. This progress will not make us forget either the suffering of the families or the gravity of the crime. It will make it possible, though, for justice to be done in this painful case so that the perpetrators are identified and convicted.

The case of the attack on Pan Am flight 103 has, unfortunately, not witnessed such developments. Pursuant to the resolutions, the suspects in this case must appear before a competent United States or United Kingdom court. This demand has not yet been satisfied, and France, in keeping with the tripartite letter of 20 December 1991, expects Libya to meet the requests addressed to it.

My Government took note with great interest of the two Judgments rendered by the International Court of Justice in the Lockerbie case. The Court, under the Charter, is the principal judicial organ of the United Nations, and it is therefore natural for the Court to decide on the petitions submitted to it. France notes, nevertheless, that these Judgments are basically procedural in nature; the Court has recognized its competence to hear the matter put before it and will rule on the substance of the case later. These decisions do not affect the relevant resolutions of the Security Council.

The Government of France also took note, in November 1995, of the letter in which the United Kingdom Government deemed that the information received from Libya concerning its links with the Provisional Irish Republic Army, though incomplete, did meet its expectations. We also noted the more general commitment by Libya to renounce terrorism.

France notes that for several years now a number of States and regional organizations have taken the initiative of putting forward proposals to resolve the current impasse over the Lockerbie case. We believe that these States and regional organizations have been acting in good faith, with a sincere desire for justice to be done in the Lockerbie affair. The perpetrators must be punished, and the families of the victims must know the truth and obtain the compensation due them. We note that the Government of Libya has officially accepted some of these proposals. We note also the positive conclusions expressed in the report commissioned by the Secretary-General on the Scottish judicial system.

Once again, we know that no trial and no compensation will ever erase the suffering of those who lost a loved one in the attack on Pan Am flight 103. Under the Charter, States must fully and immediately implement Security Council resolutions, and Libya must comply with the demands of the Council. We believe that in order to resolve the impasse any proposal compatible with the resolutions and acceptable to the Governments most directly concerned deserves consideration.

In the meantime, my Government intends to be sensitive to the humanitarian consequences of the sanctions in force. In the Security Council, as in the sanctions Committee, France acts to see to it that the exemptions regime is applied generously and effectively. A number of steps have been taken towards that end, such as authorizations for flights transporting Libyan pilgrims; other exemptions are envisaged, such as the replacement of aircraft used for medical evacuations. In this connection, if it appears that new aircraft need to be acquired, we hope very much that a positive decision will be taken quickly to ensure the continuity and safety of medical-evacuation flights.

Having considered the report of Mr. Petrovsky requested by the Secretary-General and the letter addressed on 19 January last by Libya to the sanctions Committee, France believes that in addition to these measures other exemptions may be considered in a positive light. I refer, for example, to the air transport of urgently needed medicines and the maintenance of aircraft used exclusively in the agricultural sector.

The point of this debate is not whether to maintain sanctions; the sanctions were very recently renewed, and we know that there is no agreement within the Security Council to amend the current regime. However, this debate enables us to hear Member States, and we must listen, because anything that could bring us closer to a just settlement is worthy of support and interest.

We have said that we believe that after many years of inertia, significant progress has been made in the UTA case. We hope that the cooperation we managed to obtain will also be forthcoming in the Pan Am 103 case. The point of sanctions, as many speakers have recalled, is not to punish a population but to ensure compliance with international law. The punishment for the perpetrators of these attacks can be decided on only if they appear before a competent court. France hopes that everything possible will be done so that justice can be done.

The President: I thank the representative of France for his kind words addressed to me.

Sir John Weston (United Kingdom): Thank you, Sir, for presiding over this meeting.

We are now in the tenth year since 270 innocent people were murdered when Pan Am flight 103 was blown up over the Scottish village of Lockerbie. They and their families are the victims of an appalling act of terrorism which the Security Council has unanimously condemned. Representatives of the British and other victims' families are present in this Chamber observing today's debate. My delegation pays tribute to them and to their fortitude in coping for so long with their grief and the denial of justice. It is high time that justice was done and that the two accused were handed over to face trial in Scotland. I welcome this opportunity once again to state the position of the British Government.

The solution to this issue lies in the hands of the Libyan Government. Libya has only to comply with Security Council resolutions and hand over the two suspects in order for sanctions to be lifted. For whatever reasons, Libya has refused for over six years to comply. It has sought instead to enlist other members of the United Nations behind its policies of non-compliance, on the basis of misrepresentations about the trial process, about the impact of sanctions and, most recently, about the preliminary ruling of the International Court of Justice.

We greatly respect the Organization of African Unity and the League of Arab States. We understand the pressures of regional solidarity. But we hope these organizations will not be used to undermine the Security Council's resolutions and that their influence will eventually be deployed to bring about Libya's acceptance of international law and justice for the victims. As President Mandela said last October in Libya itself, the United Nations must be respected. Making an exception for Libya would harm the United Nations and its authority more generally. Are we now to establish as a new norm that those accused of crimes of international terrorism may choose the place of their trial when it suits them? Which other Member States here present would countenance that, after the murder of innocent people in their own territory and jurisdiction?

Let me address Libya's misrepresentations in detail.

First let me deal with the question of the fairness of a trial of the two accused in Scotland.

Libya has formally stated that it has no reservations about the fairness of Scottish justice. Instead Libya claims that the climate of press and public opinion in Scotland would render a fair trial impossible. This is simply untrue. There is no television in court and no media circus in Scotland. There are strict rules on prejudicial publicity and contempt of court within the Scottish legal system which are aimed at ensuring that no such prejudice can take place. Indeed, trials have been stopped in the United Kingdom on the rare occasions where press reporting was held to have prejudged the issue.

On the subject of press reporting, the Libyan Ambassador himself distributed the videocassette of a recent BBC Scotland programme which argued that the Libyan suspects were innocent. So much for prejudicial publicity. This claim must, of course, be tested in a Scottish court. We are nevertheless grateful to the Libyan Ambassador for demonstrating that his contention that the Scottish press or indeed the Scottish people have made up their minds about the guilt of the two suspects in advance is patently false.

The Secretary-General's own expert mission to Scotland late last year exposed the hollowness of Libyan arguments about a prejudicial climate for a trial in Scotland. Regrettably, similar invitations from the British Government to the Arab League and to the Organization of African Unity to send missions to Scotland to see Scottish justice at first hand rather than accept the Libyan Government's own propaganda were rejected. I find this hard to understand. Firsthand knowledge of the facts is always preferable to hearsay and unsubstantiated assumptions. The United Nations own two independent experts — both respected judges, one from Zimbabwe and one from the Netherlands — could not have been clearer. They concluded not just that the Scottish legal system was fair and independent. They also concluded that, contrary to Libyan claims, the accused would receive a fair trial under the Scottish judicial system, and that their rights during the pre-trial, trial and post-trial proceedings would be fully protected in accordance with international standards.

Let me make it clear that for the trial itself in Scotland, the British Government would also welcome international observers, from the United Nations, from the Organization of African Unity, from the Arab League and, of course, from Libya. The independent United Nations experts concluded from their visit that their presence could be easily and fully accommodated.

The OAU and the Arab League have stated that they wish to see justice done as soon as possible. On this specific point, the report of the Secretary-General's expert mission is quite clear. The speediest and fairest route would be through the Scottish courts in Scotland. Moving the trial to a third country would be without precedent. It could offer to those who are looking to frustrate progress and justice another opportunity for prevarication and procedural delay. We have heard in the past from Libya that it cannot require the accused to stand trial in Scotland; it is worth remembering that in 1993 Libya said that it would encourage the accused to do so. Frankly, we dispute that contention. But assuming for one moment that it were true, why should Libya be better able to require them to attend a trial elsewhere?

I turn next to sanctions.

Libya is claiming that the Security Council's resolutions are unjust because of the impact of sanctions on their country. The report of the Secretary-General's own emissary, Mr. Petrovsky, does not support these claims. Indeed, to claim that restrictions on air travel have a major humanitarian impact is, in itself, implausible. The sanctions in resolutions 748 (1992) and 883 (1993) have been carefully targeted to minimize their impact on the Libyan population. The vast majority of Libya's imports and exports are unaffected, including all medicines and other humanitarian supplies. I have also heard the suggestion that Libya's oil production is affected. Let me quote Libya's own figures that oil production in 1997 averaged 1.42 million barrels a day, up by 20,000 barrels a day from 1996, an increase that helped boost Libyan foreign currency reserves up to a comfortable $9.95 billion. Libya has one of the highest per-capita incomes on the African continent. Meanwhile, and again I quote Libyan official sources, Libyan gross domestic product went up by 6 per cent in 1997 and is predicted to go up a further 7 per cent this year. If there is any truth to the Libyan Government's statements about economic hardship, it might in the circumstances be more realistic to look for the causes, not in sanctions, but in policies.

Mr. Petrovsky's report also clearly states that Libya is not making full use of the exemptions that already exist to respond to humanitarian emergencies. On medical evacuation flights, the United Nations Secretariat provides a 24-hour service to deal with requests for emergency evacuation flights every single day of the year. The facts are simple: there have been no problems with medical evacuations this year, nor have any medical evacuations been prevented in previous years when agreed procedures have been observed. Earlier this week the sanctions Committee repeated its willingness to increase the number of destinations for medical evacuations and to replace Libyan medical-evacuation aircraft. And in a press release from the Chairman of the Committee today, the Committee makes clear that it will consider all necessary steps to ensure that Libya has the means safely and expeditiously to perform medical evacuation flights.

Similarly, the sanctions Committee has always shown its respect for the religious obligations of Libyan Muslims by facilitating arrangements to allow Libyan pilgrims to perform the Hajj. The sanctions Committee has declared its willingness to facilitate these arrangements again this year. And again in today's press release, the Committee reiterates that willingness, and its willingness to continue considering necessary humanitarian exemptions from the sanctions regime.

Let me now comment briefly, Sir, on the recent decisions of the International Court of Justice. In his letter to you of 4 March, the Libyan Permanent Representative grossly misrepresents the facts.

The decisions delivered by the International Court on 27 February were rulings on preliminary objections lodged by the United Kingdom and the United States to the Libyan claim before the Court that, under the Montreal Convention, it has the exclusive right to try the two Libyans accused of the Lockerbie bombing. What the Court decided was that it did have jurisdiction to decide on the merits of the Libyan case about the Montreal Convention. It did not decide that Libya's claims to try the case in Libya were justified, and there has been no decision on that question at all.

The United Kingdom is arguing before the Court that this matter is governed by Security Council resolutions 731 (1992), 748 (1992) and 883 (1993), which oblige Libya to surrender the two accused for trial in Scotland or the United States. Obligations under the United Nations Charter — including compliance with binding Security Council resolutions — take precedence over any other alleged international obligations. The Court decided on 27 February that this United Kingdom point is a substantive one and that it cannot be ruled on in a preliminary way; rather, the case should be considered at a full hearing. The Court decided:

> "Having established its jurisdiction and concluded that the application is admissible, the Court will be able to consider this objection [that is, the objection based on the authority of the Security Council resolutions] when it reaches the merits of the case". [S/1998/191, p. 80, para. 50]

So what the Court has decided is that the substance of this question, concerning the interpretation of the Montreal Convention and the respective authority of the Convention and the resolutions of this Council, should be fully considered. This decision was just one stage in the judicial proceedings, with the main argument on the merits still to come. The United Kingdom Government will contest the next phase of this case vigorously: our argument on the binding nature of these resolutions and their overriding authority is one which has implications beyond the facts of this case and which should be of great concern for all those States that are anxious to uphold the authority of the decisions of this Council.

That is what the Court's decision was about. Let me also remind Council members what it was not about. It was not a decision that Libya's claim was valid. It was not in any way a decision on the merits of the case against the two accused. It was not a decision that Libya, or for that matter the International Court of Justice, which has no jurisdiction to hear criminal cases, should try the case against them. Most importantly, it was not a decision that the Security Council resolutions under which Libya is obliged to surrender the two for trial in Scotland or the United States are invalid. These resolutions are unaffected by the Court's ruling and therefore remain in force.

Despite all attempts to muddy the waters, the plain fact remains that Libya is under international obligations adopted under Chapter VII of the Charter, with which it has not yet complied. Libya's claims that the ruling relieves Libya of its obligations to hand over the two accused for trial in Scotland or the United States are simply false. Indeed, an application by Libya that it should no longer be called upon to surrender the two accused because of these proceedings has already been rejected by the International Court, in a previous decision of 1992.

I hope that today's debate will dispel some of the misrepresentations and distortions advanced by the Libyan Government in its efforts to avoid compliance with the resolutions of this Council. We should never lose sight of the original reason why sanctions were imposed. They were imposed because Libya refuses to give up for trial in Scotland or the United States the two

Libyans who stand accused of the destruction of Pan Am flight 103, an act of mass murder which cost 270 innocent lives. Libya's attempts to justify that refusal are without force or credibility.

In terms of their lasting claims to justice, the victims do not, in the words of the poet, "go gentle into that good night", they "rage, rage against the dying of the light".

Let those who have spoken today in favour of justice for the families and relief from sanctions for Libya prevail upon the Government of Libya to perform the simple act of handing over the two suspects as soon as possible, with all the guarantees that have been offered.

The President: I thank the representative of the United Kingdom for his kind words addressed to me.

I shall now make a statement in my capacity as Secretary of State for Foreign Affairs of the Gambia.

The Government and the people of the Gambia are very keen on having a world of justice and fraternal cooperation, with intercultural exchange and free trade among all the States of this world. It is for this reason that we do not hesitate to make our voice heard on the differences opposing the Libyan Arab Jamahiriya, on the one hand, and the United Kingdom and the United States, on the other, over the Lockerbie tragedy. We can imagine the pain, the anguish and the frustration of the families of the victims of the ill-fated Pan Am flight 103. Unless justice is done, our collective conscience will never be clear. A great African leader once said:

> "Conscience is an open wound; only truth can heal it."

Moreover, the longer justice is delayed, the greater the anguish of those who lost their loved ones. Not only is it true that justice delayed is justice denied, but by delaying it, we also run the risk of adding insult to injury.

It is for this reason that President Jammeh and the Government and the people of the Gambia would like this matter to be laid to rest as quickly as possible. In this connection, we are confident that we can rely on the long-established ties of friendship and cooperation that exist between each of the countries concerned and the Gambia so that we can go the extra mile necessary to break the logjam over the question of venue for the trial of the two suspects.

Guided by the rule of law and the spirit of compromise and cooperation, the Organization of African Unity, of which we are a member, in collaboration with the League of Arab States and supported by the Non-Aligned Movement, worked out a package with the following options aimed at finding a solution acceptable to all: a trial of the two suspects should be held in a third and neutral country to be determined by the Security Council; the two suspects should be tried by Scottish judges at the International Court of Justice at The Hague, in accordance with Scottish law; and a special tribunal should be established at the International Court of Justice headquarters in The Hague to try the two suspects.

It is self-evident that if the Libyan Arab Jamahiriya were not willing to cooperate, the Organization of African Unity, together with all the other organizations, such as the League of Arab States, the Non-Aligned Movement and, indeed, the Organization of the Islamic Conference, would not have been able to come up with such a practical and constructive package. It is not designed to stand up to any country; it is designed to allow us to move a step forward.

In addition to that, the International Court of Justice, in its ruling on 27 February 1998, on *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie*, brings in a new element to help us. My delegation sincerely believes that we should not let this opportunity slip away. Let us seize this opportunity to give the whole world a chance to see Scottish justice at its best and in the fine tradition of the British legal system, which has allowed the Gambia today to be a peaceful and stable country in the African continent. It could be of use to note that in the Gambia today, even after its independence, Gambians can still apply to the Privy Council in the United Kingdom. That shows our confidence in the type of justice that is established by that country.

Therefore, we believe that when we call for the trial to be held in a neutral venue, we are only seeking greater impartiality and neutrality to reassure the accused that they would be given a fair trial. This does not in any way diminish our faith in Scottish justice. But we fear that insisting too much on holding the trial in Scotland and nowhere else does not help the situation. The bottom line, in our view, is to proceed with the trial under Scottish law in a third country. As long as we are not compromising on the principle of trying the suspects, the venue should not hold us to ransom.

Having said that, I would now like to turn to a related issue. I am referring to the decision by the Council to maintain the sanctions imposed on the Libyan Arab Jamahiriya following a review of the situation a few weeks ago.

Sanctions notwithstanding, it is a widely held view that humanitarian needs and religious considerations constitute an exception to the rule. In this context, my delegation strongly believes that with regard to such pressing matters as medical evacuations, the replacement of aircraft used for medical purposes or similar things in general, the Council should encounter no difficulties in giving quick approval whenever the request is made.

As for religious issues, we are all well aware of their highly sensitive nature. For Muslims throughout the world, the annual pilgrimage, or Hajj, to the Holy City of Mecca, one of the fundamental pillars of Islam, will take place within the next few weeks. The Hajj itself is no child's play. It is very, very demanding indeed. The pilgrim needs all his or her energy, both physical and mental, to carry out all the rites and rituals for the entire duration of this most special event.

Taking into account all these factors, the delegation of the Gambia is of the view that it would be in perfect order to try to make an exception to the rule. Not that we will try to erode the authority of the Security Council, but we should see to it that the credibility of the Security Council is not called into question and at least open some leeway to be able to see what Libya will do if the Security Council decides that the trial should be held elsewhere. It is in this situation that we will see the good faith of the Libyans, and it is in this situation that we will also be able to prevent the suffering of innocent Libyans.

I believe that this is a historic moment. I think that if we give it a chance it will only enhance the credibility of the Council, and the Council will remain the tribunal through which our political problems are solved in the interests of the ideals of the United Nations, which are not of coercion but of harmony and peaceful coexistence among all its Members in a world of justice and law.

I now resume my functions as President of the Council.

I should like to inform the Council that I have received letters from representatives of the Lao People's Democratic Republic, Lebanon, Uganda and Viet Nam, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Kittikhoun (Lao People's Democratic Republic), Mr. Moubarak (Lebanon), Mr. Semakula Kiwanuka (Uganda) and Mr. Ngo Quang Xuan (Viet Nam) took the seats reserved for them at the side of the Council Chamber.

The President: The next speaker inscribed on my list is Mr. Hussein Hassouna, Permanent Observer of the League of Arab States to the United Nations, to whom the Council has extended an invitation under rule 39 of its provisional rules of procedure. I invite him to take a seat at the Council table and to make his statement.

Mr. Hassouna (League of Arab States) (*interpretation from Arabic*): On behalf of the League of Arab States, it is indeed my pleasure to welcome Your Excellency the Foreign Minister of the Gambia and to congratulate you, Sir, on your presidency of the Security Council during this open meeting, which is of particular importance in view of the issue being discussed. We also wish to welcome our brother from Libya, Mr. Muntasser, who has honoured us with his presence at this meeting.

Allow me to express my gratitude to all the members of the Security Council for having agreed to hold this meeting and devoting it to the discussion of the Lockerbie incident in all its aspects for the first time after several years, which augurs the beginning of a new stage in dealing with the problem, and which we hope will lead to a peaceful, just and final settlement of the problem.

Since its inception on 22 March 1945 as the first regional organization within the framework of the international order in the wake of the Second World War, the League of Arab States has supported its member States, helping them to safeguard their independence, sovereignty and territorial integrity. It has also endeavoured, in accordance with its charter and related agreements, to reach a peaceful settlement to all international disputes, either in relations among its members or in their relations with other States. It is on this basis that the League of Arab States from the beginning of the Lockerbie crisis in 1991 has affirmed its support of and full solidarity with the Libyan Arab Jamahiriya with a view to reaching a peaceful settlement to that dispute in order to avoid all negative and serious consequences, not only to the brotherly Libyan people alone, but also to the people of the whole region.

To that purpose, in 1992 the League of Arab States set up the ministerial Committee of Seven, entrusting it with following up on the developments of the case and establishing the necessary contacts with the parties concerned and with the Security Council in order to find a solution to the problem in keeping with the provisions of the charter and the principles of international law.

Moreover, I would like to mention in this respect the efforts undertaken by Dr. Esmat Abdul-Maguid, the Secretary-General of the League of Arab States, to explain the point of view of the Arab States concerning this issue and to endeavour to find a just settlement to it. These efforts were represented by his repeated visits to the United Nations Headquarters in New York and his intensified meetings with the members of the Security Council and with the Secretary-General of the United Nations. In fact, he wanted to attend this meeting, but prior obligations did not allow him to do so.

Within the framework of the international efforts undertaken to reach a peaceful and just solution to the crisis and on the basis of the provisions of Chapter VIII of the United Nations Charter concerning the activities of regional organizations that are in keeping with the objectives of the United Nations, the League of Arab States, in cooperation with the Organization of African Unity and the Organization of the Islamic Conference, has submitted three options to the Security Council as a basis on which to solve the problem. These proposals, as you know, consist of either a trial of the suspects in a neutral country or at the headquarters of the International Court of Justice, or by a special penal court. This is provided that the Security Council would consider approval of provisional measures to except air travel for humanitarian, religious and official purposes from the application of sanctions.

Libya has responded to all the proposals and has manifested flexibility for the purpose of reaching a peaceful and just solution to the conflict. This has been emphasized before you today by the Libyan Foreign Minister, Mr. Muntasser. Thus Libya has accepted the principle of bringing the suspects to trial. It has also accepted the jurisdiction of the Scottish court and the application of Scottish law. It has cooperated fully with the French judiciary authorities in all of the investigations. It has repeatedly declared its condemnation of terrorism.

But at the same time, it has insisted that the trial take place in a neutral country and in an atmosphere free from bias, refusing to surrender the two suspects for trial in the United States of America or Scotland, which would be contrary to its own national laws, to the provisions of international law and to the 1971 Montreal Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation. This is particularly important as there is no treaty in force for the exchange of suspects between Libya and the United States and the United Kingdom. These are the firm legal principles that Libya has maintained.

The main objective of all the efforts undertaken by the League of Arab States and the other regional and international organizations, such as the Non-Aligned Movement and the Group of 77, which represent the majority of the members of the international community, is to achieve a just, peaceful and final settlement to the problem in the framework of international legitimacy that would be satisfactory to all the parties concerned, including the families of the victims, and at the same time, to safeguard Libyan sovereignty within the framework of law and justice. The time has come to alleviate the suffering of the Libyan people and to allow this sister country to play its positive role fully in the Arab, African, Islamic and Mediterranean context.

The members of the Security Council have recently examined the report of the fact-finding mission headed by Mr. Vladimir Petrovsky and sent by the Secretary-General of the United Nations to the Libyan Arab Jamahiriya. The report, with its information sources of unimpeachable credibility, refers to the deteriorating economic and social conditions in the country, particularly in the health, social, agricultural and transportation sectors, as a result of the continuing sanctions imposed on it year after year, which, in reality, constitute a form of collective punishment of an entire people despite the fact there is so far no proof of either the guilt or the innocence of the two suspects. It is in fact a case of flagrant denial of justice for an entire people.

Unfortunately, the negative consequences of the sanctions extend to other, neighbouring Arab and African countries, affecting the stability and the welfare of an entire region. Perhaps this is why many have raised their voices before the Security Council today, declaring that the time has come for the sanctions on Libya to be lifted and for a peaceful settlement of the dispute to be reached. President Robert Mugabe, President of the Republic of Zimbabwe and the current Chairman of the Organization of African Unity, has previously, in this very Council, on 25 September 1997, expressed this same opinion. This is the same request made by several Arab and African Presidents, like President Nelson Mandela of the Republic of South Africa.

The Security Council decision to maintain the sanctions on Libya was taken on 6 March 1998, despite the Judgment rendered by the International Court of Justice on 27 February 1998 concerning the claim submitted by Libya against the United States and the United Kingdom. It is a Judgment we fully welcome, and we consider it a very important step towards settling the dispute.

Our opinion was that the Security Council should take into account the Judgment of the highest judiciary authority of the United Nations because indeed it does give a new legal dimension to the very nature of the dispute and indicates a way by which the Security Council could deal with it. The Judgment of the Court has determined that the Lockerbie incident is indeed a legal dispute between Libya and the United Kingdom and the United States which falls within the jurisdiction of the Court and that all the parties to the dispute should respect it and abide by it. The conflict essentially has to do with a legal matter, which is a dispute over the interpretation and application of the 1971 Montreal Convention on the safety of civil aviation. Consequently, the Libyan Arab Jamahiriya has, from the very start, followed the correct path as it resorted to the International Court of Justice, in accordance with Articles 33 and 36 of the Charter of the United Nations. This is what had actually taken place before the United States and the United Kingdom resorted to the Security Council and before the renewal of the imposition of sanctions.

In our view, wisdom should have dictated that the Council take into account the nature of the dispute in accordance with Article 36 of the Charter, which states:

> "The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties."

With the Judgment which has been rendered, to the effect that a legal dispute exists with regard to the interpretation and application of the Montreal Convention, the Court will consider it in the future stages with the participation of all parties to the dispute, in accordance with what they announced a few days ago. We welcome these developments.

Therefore it is no longer acceptable for the sanctions against Libya to continue without proving the international responsibility of the Libyan Arab Jamahiriya or the responsibility of the two suspects. On these bases, the League of Arab States calls upon the Security Council to suspend its resolutions 748 (1992) and 883 (1992) at this stage, until the International Court of Justice settles the substance of this dispute.

Finally, we look forward to the fact that this meeting of the Security Council will be the starting point towards a change of the way in which the Council has been dealing with this dispute. This should result, through an in-depth consideration of all the aspects of the problem, in the taking of practical and definitive steps to contain the crisis and speed up its solution, bearing in mind the proposals submitted by the League of Arab States and the other regional organizations.

Yet, I add that this cannot be accomplished unless there is the political will on the part of the other two parties to the dispute with Libya in order to reach an acceptable and just solution based on the application of the law governing the settlement of international disputes. This undoubtedly will contribute to the consecration of international legitimacy and the reinforcement of law in international relations.

The President: I thank the representative of the League of Arab States for his kind words addressed to me.

The next speaker inscribed on my list is Mr. Amadou Kebe, Permanent Observer of the Organization of African Unity to the United Nations, to whom the Council has extended an invitation under rule 39 of its provisional rules of procedure. I invite him to take a seat at the Council table and to make his statement.

Mr. Kebe (Organization of African Unity) (*interpretation from French*): The Organization of African Unity, which I represent, is very honoured to see you, Sir, presiding over this very important meeting of the Security Council. I wish also to express respect for the victims of Pan Am flight 103 and, on behalf of the organization I represent, compassion for their families, who are here with us in this Chamber. Their sorrow, which has lasted too long, means that all the parties concerned must make the necessary concessions so that all light can finally be shed on this tragic case.

When the Conference of Heads of State and Government of the Organization of African Unity held its thirty-third session in Harare, Zimbabwe, last June, it considered the dispute between the Libyan Arab Jamahiriya and the United States of America and the United Kingdom. The Conference declared:

> "We take note of the fact that the Libyan Government has accepted the initiative of the League of Arab States, supported by the OAU, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference, recommending a just and fair trial of the two Libyan suspects by Scottish judges and in accordance with Scottish law, at the headquarters of the International Court of Justice. We remain convinced that this initiative, if accepted, constitutes a practical solution and should guarantee a just and fair judgment whereby all the interests of the concerned parties would be considered."

The dispute between Libya and the United States and the United Kingdom is a constant concern for the Organization of African Unity, in particular because of the time that has been devoted to it and the painful state of waiting in which the families of the victims of Pan Am flight 103 find themselves, as well as the suffering the sanctions have caused and continue to cause to the Libyan people.

This dispute between Libya and two permanent members of the Security Council falls under Article 33 of the Charter of the United Nations, which states:

> "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
>
> "The Security Council shall, when it deems necessary, call upon the parties to settle their disputes by such means."

The Organization of African Unity (OAU), which has always been and remains firm in its condemnation of terrorism and all acts of terrorism, is profoundly convinced that a rapid and just settlement of this dispute in accordance with international law will make it possible for to bring about the justice to which we aspire.

The consistency of the OAU in this matter is rooted in the principle of the peaceful settlement of disputes. The current Chairman of the OAU, His Excellency Mr. Robert Mugabe, President of Zimbabwe, and the Secretary-General of the OAU, His Excellency Salim Ahmed Salim, have emphasized in this very Chamber the urgent need to find a settlement to this dispute.

In his address of 25 September, 1997, President Mugabe called for Security Council action to resolve the dispute. He said:

> "I would be remiss were I not to raise another matter of concern to the African continent that requires the attention of the Council and that was debated at the last summit meeting of the Organization of African Unity, namely, the need to find a solution to the dispute between Libya, the United States of America and the United Kingdom over the Lockerbie tragedy. In addition to the families of those who lost their lives, many other innocent third persons continue to suffer as a result of the sanctions imposed on Libya. Now that Libya has agreed that the two accused Libyans can be tried under Scottish law, by Scottish judges but in a third country, or at the International Court of Justice, we feel that this offer should receive your serious consideration so that matters can move forward." [S/PV.3819, p. 4]

In his address, Secretary-General Salim complemented President Mugabe's appeal by drawing attention to the distinctive consequences of the sanctions imposed. He said:

> "The Organization of African Unity has consistently expressed its concern over the continued sanctions imposed on that country, with their humanitarian consequences on the ordinary people, and has called for a fair trial of the suspects according to acceptable requirements of justice and international law. The Security Council may wish to give serious consideration to the proposals jointly presented by the OAU and the League of Arab

> States aimed at seeking a just and equitable solution to the crisis." [ibid., p. 5]

The OAU wants to see a speedy resolution of this dispute and the immediate lifting of the harsh sanctions measures imposed against the people of Libya. The three options that the OAU and the League of Arab States have submitted to this Council have the support of the Non-Aligned Group. These three options signal the willingness and flexibility of the Libyan Arab Jamahiriya to seek a peaceful settlement of this dispute. It is therefore up to the Security Council to choose one of these options.

The first calls for the trial of the two suspects to be held in a third and neutral country to be determined by the Security Council. By the second, the Security Council would decide that the two suspects be tried by Scottish judges at the International Court of Justice at The Hague, in accordance with Scottish Law. By the third, the Security Council would establish a special criminal tribunal at the seat of the International Court of Justice at The Hague to try the two suspects.

At a time when some Member States are insisting on their sovereign right to try at home their nationals charged with crimes committed in other States, the Libyan Arab Jamahiriya has in good faith accepted the three options. At this meeting, it is therefore important that the Security Council take Libya's flexibility into account.

The Security Council has an almost sacred place in the Charter of the United Nations. The important responsibility that it has in the maintenance of international place and security derives from the purposes and principles of the United Nations. The Security Council owes it to the people of Libya, who have suffered over the past five years, and to the relatives of victims of Pan Am flight 103, who have long sought justice, to accept one of the three options before it.

Paragraph 2 of Article 24 of the Charter enjoins the Council to act

> "in accordance with the Purposes and Principles of the United Nations".

With respect to these purposes and principles, paragraph 3 of Article 2 reminds us that:

> "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."

The Libyan Arab Jamahiriya has responded to this moral edict by accepting the three options now before the Council.

It is precisely the element of justice that the OAU, the League of Arab States and Non-Aligned Group want to see. Our participation at this meeting underscores the importance which the OAU attaches to this matter. What we seek from this Council is action — action that would, first of all, establish the truth about this dispute and, in the process, render justice to the relatives of the victims of Pan Am flight 103 and to the Libyan victims of the sanctions imposed by this Council.

This Council cannot continue to watch the suffering and death of people affected by the sanctions. While no one — certainly not the OAU — can excuse terrorism or acts of terrorism, no one should condone what has been happening to the people of Libya since 1992. Those found guilty of the terrorism that caused the tragedy of Pan Am flight 103 will have to face the consequences of their actions. International law demands that justice be done and this Council must see to it that justice is done for and on behalf of the relatives of the victims of flight 103 and of the people of the Libyan Arab Jamahiriya.

The President: I thank the representative of the Organization of African Unity for his kind words addressed to me.

The next speaker is Mr. Mahamadou Abou, Deputy Permanent Observer of the Organization of the Islamic Conference to the United Nations, to whom the Council has extended an invitation under rule 39 of its provisional rules of procedure. I invite him to take a seat at the Council table and to make his statement.

Mr. Abou (Organization of the Islamic Conference) (*interpretation from French*): Allow me at the outset to congratulate you, Sir, on your outstanding guidance of the Council's debate. I should like also to pay a well-deserved tribute to your predecessor, Ambassador Dangue Réwaka, for his many successes during his term of office.

I also welcome Mr. Muntasser, the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya.

I should also like to express the compassion of the entire Muslim world for the families of the victims of Pan Am flight 103 and UTA flight 772.

The dispute between certain countries and the Libyan Arab Jamahiriya is of abiding concern to the Organization of the Islamic Conference (OIC). Our organization, pursuant to the principles of its charter with respect to solidarity among its member States, and to the United Nations Charter, in particular Article 33 of Chapter VI — which states, *inter alia*, that

> "The parties to any dispute ... shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation ...[and] judicial settlement"

— remains convinced of the need to arrive speedily at a solution that will allow the immediate lifting of the embargo imposed on Libya.

Our Organization is concerned by the suffering and material and human harm being experienced by the Libyan and neighbouring peoples because of the sanctions imposed in implementation of Security Council resolutions 748 (1992) and 883 (1993). The dignity of the Libyan people has been violated, and they resent the injustice of this collective punishment, the more so because no court of law has yet established their guilt in any form whatsoever. The presumption of innocence, which is the golden rule of all systems of justice, seems to me to have been disregarded in this case. Similarly, the principle of collective punishment — which brings back grim memories — is not one of the universal principles of justice.

The Libyan Arab Jamahiriya has shown remarkable flexibility and a sincere desire for cooperation. It has adopted a responsible and courageous attitude and has repeatedly put forward honourable proposals to settle the issue. The rejection of these proposals is harmful for international peace and security.

However, the international community is totally mobilized behind Libya. We have clear proof of this in the statements of those who have spoken before me in this Chamber. In addition, to mention just the most recent instances, we have the final proposal adopted by the Non-Aligned Ministerial Conference in New Delhi, the declaration of the thirty-third Summit of the Organization of African Unity in Harare, the resolution of the Council of Ministers of the League of Arab States at its one hundred and eighth session and the relevant resolutions and declarations of the OIC.

This mobilization by the international community, reinforced by the recent Judgment rendered by the International Court of Justice, should make this body look at the question before us today in a radically new way. We cannot disregard the Court's decisions, the content of which I shall review briefly.

The Court has stated that it does have jurisdiction in this case on the basis of article 14, paragraph 1 of the Montreal Convention. It thus rejects as ill-founded the objections raised by the other side with regard to the character of resolutions 748 (1992) and 883 (1993). Whatever interpretations various people may make of this Judgment, this is nevertheless a new element that should be taken into account in the next sanctions review.

This decision by the Court is a moral victory for Libya. It is legal confirmation of the feeling expressed by the international community that this matter may and should be reasonably resolved in the appropriate forums, far from any media hype. A solution should be found that is in keeping with international law, a solution that respects the sovereignty and dignity of Libya and its right to get on unimpeded with the job of improving the living conditions of its people. Those conditions are difficult, as is clear from the Petrovsky report, which highlights the humanitarian plight of women and children. The report has been confirmed by the many eyewitness reports from the many distinguished visitors who constantly visit the country.

Many proposals to ease the population's humanitarian plight have been put forward by the OIC and other organizations, but without result. However, the humanitarian proposals, despite their importance, have been overtaken and are now inadequate in the light of developments in the case. Only bold, courageous measures should be on the agenda now.

Today the new situation created by the Court's decision and the positions expressed by the various international forums show that the only action worth taking to stay within the spirit of the Court's Judgments is suspension of the air embargo. Such a decision, which would be both just and humane, could not but strengthen the credibility of the approach taken by the Security Council pending a complete lifting of the embargo.

The Secretary-General of the OIC hopes that this measure will be considered at the next sanctions review.

The President: I thank Mr. Abou for his kind words addressed to me.

The next speaker is the representative of the United Kingdom, speaking on behalf of the European Union, on whom I now call.

Sir John Weston (United Kingdom): I have the honour to make the following statement on behalf of the European Union. The Central and Eastern European countries associated with the European Union — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia — as well as the European Free Trade Association country member of the European Economic Area, Iceland, align themselves with this statement.

The European Union reiterates its unequivocal condemnation of terrorism in all its forms. Terrorism constitutes a threat to international peace and security. The European Union stresses the need to strengthen international cooperation between States, international organizations, agencies, regional organizations and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed. The decisions taken by the Security Council with regard to Libya were and remain guided by the desire to curb international terrorism and to ensure that justice is done.

The European Union deeply regrets that, more than nine years after the bombing of Pan Am flight 103, with the loss of 270 lives, and six and a half years after charges were filed, those accused of this crime have still not been brought to justice. The European Union calls on the Libyan Government to comply fully with the resolutions of the Security Council, in particular to ensure the appearance of those charged with the bombing of Pan Am flight 103 for trial before the appropriate United Kingdom or United States court, as set forth in resolution 883 (1993).

The European Union welcomes the recent report by independent legal experts appointed by the Secretary-General of the United Nations. Its findings make clear that the Scottish judicial system is fair and independent; that in this particular case the two accused would receive a fair trial in Scotland; and that their rights would be fully protected. The European Union also welcomes the offer of the United Kingdom to allow international observers to attend the trial in Scotland.

The European Union notes that the report of the fact-finding mission to Libya has been sent to the sanctions Committee for consideration. The European Union welcomes the recent press statement by the Chairman of the sanctions Committee emphasizing the readiness of the sanctions Committee to continue to respond promptly to requests for humanitarian exemptions and its determination to continue to pay special attention to all humanitarian issues arising under the relevant Security Council resolutions, including those pertaining to religious obligations.

Regarding the recent decisions of the International Court of Justice, the European Union notes that these decisions were procedural in nature and that the Court will consider the arguments on the substance of the cases in full before reaching a final judgment. The Court has not pronounced on the merits of the Libyan claim concerning the applicability of the Montreal Convention. Nor do these decisions affect the relevant resolutions of the Security Council, which remain in full force. Libya must comply with them as required by the Charter of the United Nations.

Regarding the bombing of flight UTA 772, which resulted in the death of 170 people, the European Union notes that the cooperation with French judicial authorities finally satisfied most of the French demands, although some of them have still not been met. This cooperation enabled the investigating magistrate to make significant progress by giving him the opportunity to issue two additional arrest warrants for Libyan nationals and to complete the file of the inquiry. It has opened the way to the trial *in absentia*, as permitted under French law, of the six suspects.

The European Union notes also Libya's declaration that it no longer supports terrorism and the steps it has taken to end its support for terrorism. Nevertheless, Libya's failure to comply fully with the Security Council resolutions remains a serious obstacle in the way of the development of its relations with the international community.

The requirements of Security Council resolutions 731 (1992), 748 (1992) and 883 (1993) are clear. In the view of the European Union, only when Libya has complied fully with these requirements will sanctions be lifted.

The President: The next speaker is the representative of Mali. I invite him to take a seat at the Council table and to make his statement.

Mr. Ouane (Mali) (*interpretation from French*): I should like at the outset, on behalf of the Group of African States, to extend to the families of the victims of Pan Am Flight 103 and UTA Flight 772 our deepest sympathy at their sorrow.

I should like also to address to you, Sir, on behalf of the Group of African States — since I am speaking here in that capacity — and on my own personal behalf to express to you our warmest congratulations on your presidency of the Security Council for the month of March. This is all the more a pleasure for me as you are the representative of a fraternal and friendly country, Gambia. Your own qualities augur well for a wise and competent presidency. I wish also to extend those congratulations to your predecessor, Ambassador Denis Dangue Réwaka of Gabon, for the effectiveness, the competence and the sense of commitment with which he discharged his mandate.

Lastly, I should like to express to you, Sir, our heartfelt thanks and profound appreciation for having convened this meeting in order to consider the question of the dispute between the Libyan Arab Jamahiriya on the one hand and the United States and the United Kingdom on the other.

Since the publication of the letters dated 20 and 23 December 1991 — documents S/23306, S/23307, S/23308 and S/23317 — accusing two Libyan nationals in the Pan Am Flight 103 incident over Lockerbie in 1988, Libya has dealt with this dispute in a way that is consistent with the norms of international law and Libyan law and with full respect for international human rights covenants and instruments, as well as all the commitments that stem from those texts. Towards that end, Libya has from the very beginning of the dispute called for the implementation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed in Montreal in 1971, and especially its article 14, which provides that

> "Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court." [*Treaty Series*, vol. 974, No. 14118, p. 183]

Libya has resolutely followed that course, as can be seen from the following initiatives.

First, Libya opened an investigation on these suspects and proposed to the United States and the United Kingdom that they cooperate in that investigation by sending investigators from their own judicial systems, or that they authorize the Libyan investigators to participate in the investigation carried out by those States. But these proposals were not accepted.

Secondly, Libya submitted another proposal inviting the Secretary-General of the United Nations to establish a legal commission composed of judges recognized for their integrity, with a view to conducting an investigation and confirming, if need be, the accusations against the suspects.

Libya stated its readiness to begin negotiations with the United States and the United Kingdom under the auspices of the Secretary-General in order to hold the trial in a neutral State acceptable to the parties to the conflict and with all guarantees in order to determine the truth.

The Organization of African Unity (OAU) has made considerable efforts to promote a peaceful and lasting solution to the crisis. In this respect, meetings of Ministers for Foreign Affairs and OAU summits have adopted resolutions in which these bodies have expressed their appreciation for the positive efforts and initiatives of Libya in order to resolve the crisis with respect for its sovereignty and international legality. These forums have also stressed their appreciation for Libya's consistent desire to resolve the dispute by peaceful means. The resolutions of the Organization of African Unity also invited the Security Council to review its resolutions 731 (1992), 748 (1992) and 883 (1993) with a view to lifting the sanctions imposed on Libya. They also invited all the parties to begin negotiations with a view to arriving at a negotiated solution to the dispute, in accordance with Article 33 of the Charter, which calls for the solution of disputes by negotiation, mediation and judicial settlement, in accordance with the norms of international law.

The Declaration adopted at Harare on 4 June 1997 by the Assembly of Heads of State and Government of the Organization of African Unity reads along those same lines. In operative paragraph 5 of that Declaration, the Assembly reaffirms its invitation to the Security Council to examine in depth its proposals as well as those of the League of Arab States and of the Organization of the Islamic Conference, which are supported as well by the States members of the Non-Aligned Movement.

That paragraph also states that the first option is to hold the trial of the suspects in a third and neutral country to be determined by the Security Council. The second option is to have the suspects tried by Scottish judges at the seat of the International Court of Justice, at The Hague, in accordance with Scottish law. The third option would be to establish a special criminal tribunal at the Court's headquarters to try the suspects.

The Organization of African Unity has unceasingly called for the lifting of sanctions on the Libyan Arab Jamahiriya by the Security Council. In this respect, the Council of Ministers of the OAU, at its session in Tripoli from 24-28 February 1997, adopted a communiqué emphasizing that the continuation of sanctions on Libya could inspire African countries to seek ways of avoiding further suffering for the Libyan people.

Along these same lines, the 67th regular meeting of the Council of Ministers of the OAU, held at Addis Ababa from 23-27 February 1998, adopted a resolution supporting Libya's request to convene a public meeting of the Security Council, in accordance with Article 31 of the Charter. That resolution asks the Council to speed the lifting of sanctions on Libya.

On 27 February 1998, the International Court of Justice handed down two Judgments on the dispute between Libya and the United States and the United Kingdom in order to pave the way for a final settlement of the Lockerbie incident on a secure legal basis. The Judgments of the Court confirmed the just African position calling for a solution to the conflict through peaceful and legal means based on international law and the Charter of the United Nations.

With regard to the Judgments of the Court, the African Group believes that there is no longer any reason for the Security Council to maintain sanctions against the Libyan people, for the following reasons.

First, the International Court of Justice rejected by a majority claims that the Montreal Convention does not apply to the Lockerbie conflict. The Court stated that it believed that this dispute fell within the purview of the interpretation and application of the Montreal Convention, and that under paragraph 1 of article 14 of that Convention, it is up to the Court to decide the matter.

Secondly, the Court, despite claims to the contrary, decided also by an overwhelming majority that there was a dispute between the United States and the United Kingdom, on the one hand, and Libya on the other with regard to the Lockerbie incident, and that it was up to the Court itself to decide on the case.

By rejecting contrary claims, the Court furthermore decided, by a majority, on the existence of a real conflict between Libya on the one hand and the United States and the United Kingdom on the other hand regarding the interpretation of article 11 of the Montreal Convention on the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed in Montreal in 1971, which states, *inter alia*, that:

> "Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases." [*ibid.*]

Similarly, the Court likewise categorically rejected the claim that the rights of Libya under the Montreal Convention were suspended following the adoption by the Security Council of resolutions 748 (1992) and 883 (1993) imposing sanctions against Libya on the basis of Articles 25 and 103 of the Charter of the United Nations. Indeed, according to the Court, the rights of Libya under the Montreal Convention remain in force and in full effect despite Security Council resolutions 748 (1992) and 883 (1993).

Fourthly, the Court furthermore explicitly rejected the claims that Security Council resolutions 731 (1992), 748 (1992) and 883 (1993) obliged Libya to extradite its nationals to the United States or the United Kingdom so that they could be brought to trial notwithstanding Libya's rights under the Montreal Convention of 1971. According to the Court, Libya's rights under the Montreal Convention remain in force and, in this case also, are in full effect despite resolutions 748 (1992) and 883 (1993) of the Security Council.

Fifthly, the International Court of Justice has finally categorically rejected the claims that the relevant legal proceedings should be immediately halted on the presumption that the resolutions of the Security Council cannot be challenged in the Court.

For the Court, therefore, in sum, the questions regarding the Lockerbie incident are within its jurisdiction, and the case was correctly brought by Libya to the Court.

According to the Judgments rendered by the International Court of Justice on 27 February 1998, it seems, *inter alia*, that the sanctions provided for in resolutions 748 (1992) and 883 (1993) no longer have any *raison d'être*.

In conclusion, and in consistency with these arguments, the Group of African States calls upon the Security Council to respond favourably to Libya's requests. Accordingly, our Group believes that there should be a suspension of the application of the Security Council resolutions relative to sanctions against Libya — including the air embargo, reduced diplomatic representation and the freeze on assets — until the Court rules on the substance of the matter.

A positive response by the Security Council will, without a doubt, help strengthen respect for the law and reinforce the principles of the United Nations and will certainly be in keeping with the prevailing opinion of the international community as it has been repeatedly expressed in various forums. Such a decision will ease the plight of the Libyans under the embargo and relieve the countries and the peoples of the region from a tragedy that has lasted for six years now, causing unbearable suffering and hardship.

Before I conclude, allow me to welcome, on behalf of the Group of African States, the presence at this meeting of the Minister for Foreign Affairs of Libya, Mr. Muntasser.

The President: I thank the representative of Mali for his kind words addressed to me.

There are a number of speakers remaining on my list. In view of the lateness of the hour, and with the concurrence of the members of the Council, I intend to suspend the meeting now.

The meeting was suspended at 2.40 p.m. and resumed at 4.15 p.m.

The President: The next speaker inscribed on my list is the representative of Malta. I invite him to take a seat at the Council table and to make his statement.

Mr. Saliba (Malta): I would like to congratulate you, Sir, on the manner in which you are conducting the business of this very important meeting.

This meeting is an opportunity which allows Member States of the United Nations not members of the Security Council to exercise the right given to them by the Charter to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and to employ international machinery for the promotion of the economic and social advancement of all peoples. It is an opportunity to renew our commitment to this world body of sovereign States as a regulatory force in safeguarding peace and security and in promoting international cooperation in the economic, social and humanitarian fields. This is a commitment which Malta values, a commitment which we have scrupulously upheld and will continue to respect in the coming years.

In this context, we would like to make a strong appeal to all Member States to make every effort to strengthen and enhance the potential of our Organization as an instrument of peace and understanding.

As a small country, Malta has in the past sought refuge in this Organization with a view to resolving by peaceful means problems and situations that it had to face. Indeed, we look upon our Organization as a unique body that symbolizes a democratic and credible institution which protects the small, the weak and the vulnerable. It is the Organization that can and should safeguard countries from the threat or use of force against their territorial integrity and sovereignty and be a vehicle for their economic and social development.

Malta welcomes this opportunity to voice its own views on a subject that has attracted the attention of an ever-increasing audience in the international, political and legal environment. We join other delegations that have highlighted the urgency of assessing and analysing with all fairness and frankness the impact that the current and prolonged sanctions against Libya, and to that effect, against other countries have had and continue to have, not only on the targeted country or countries but also on other Member States of this community of nations. In doing so, we must ensure that justice is done to all parties involved.

As a neighbouring country to a country hit by sanctions, Malta must ensure that any preventive or enforcement measures undertaken by the Security Council in accordance with Chapter VII of the Charter do not in any way contribute to increased tension and instability in the Mediterranean region. On the contrary, we would like to see the Members of the United Nations play an active and constructive role so that the issue under consideration could be resolved in the shortest time possible. This would allow Libya to join other countries in the region in their efforts to contribute towards stability, cooperation and development in the Mediterranean region.

Together with other countries, Malta feels that a collateral effect of the application and enforcement of the sanctions regime on Libya is undermining the holistic approach of the political, economic and social initiatives launched to achieve security and stability in our region. In our case, these sanctions have had and continue to have a negative impact on our bilateral business and investment opportunities, on travel arrangements between the two countries, as well as on other economic and social exchanges.

My Government strongly believes that a serious and open debate should be launched to explore alternative measures for the application of sanctions and on measures that offer built-in incentives that encourage changes in the behaviour of targeted countries. Such sanctions must be a mechanism for the promotion of peace and not for the indiscriminate mass punishment of whole populations. Sanctions must be used to maximize political impact where it is needed most and at the same time should ensure minimum collateral damage elsewhere.

When sanctions on a targeted country have severe effects on the population at large, immediate remedial action should be taken by our Organization to alleviate the sufferings of the vulnerable groups in that society. As in the case of Iraq, we have been witness to the fact that the civilian population has been bearing the brunt of the ensuing scarcities and deprivations. The presence of a body to monitor the effects of sanctions would have averted such disastrous consequences, helped to avoid the situation deteriorating to such levels, and raised greater awareness of the humanitarian aspect of sanctions.

Malta believes that the Security Council should impose sanctions only as a last resort. My Government has consistently pronounced itself with regard to the application of sanctions in accordance with Chapter VII of the Charter. Sanctions have profound consequences, not only for the target countries, but also for the neighbouring ones. In our view, the sanctions under the present format are not achieving their desired objective. Malta is in favour of the use of fair sanctions, imposed appropriately and for the minimum period of time possible by our Organization in its task of guaranteeing international peace. However, and as already stated, the imposition of sanctions should not lead to uncontrolled far-reaching effects on the whole population of a targeted country. Besides being enforced only in extreme cases and as a final measure after all diplomatic measures have failed, a monitoring mechanism should be set in place to report back on the effectiveness or otherwise of such measures.

While my Government will unequivocally continue to respect the sanctions imposed by the Security Council and abide by them to the letter, it feels duty-bound not to remain silent in the face of undue sufferings these sanctions could cause to the civilian populations, especially if they hit women, innocent children and less-privileged groups.

My delegation would like to reiterate its position that the time has come to address the broader humanitarian and economic effects of sanctions as well as objective criteria in their application and the conditions to be complied with for their termination.

It is a source of satisfaction to note the increasing worldwide chorus of opinions that have joined the United Nations Secretary-General in calling for a reassessment of the criteria for the imposition of sanctions. The work started by Ms. Graça Machel and continued by Mr. Olara Otunnu on the impact of armed conflict on children is a case in point. Similarly, the United Nations Committee on Economic, Social and Cultural Rights has recognized that sanctions almost always have a dramatic impact on the rights recognized in the Covenant, as they often cause significant disruption of food, pharmaceuticals and sanitation supplies, jeopardize the quality of food and the availability of drinking water, severely interfere with the functioning of basic health and education systems, and undermine the right to work.

Joining the call for a more humanitarian consideration of sanctions is the Bonn-based Development and Peace Foundation and the high-level and broad-based international task force assembled by the United Nations Association of the United States under the able leadership of Lord Carrington.

In addition, the report of the fact-finding mission to Libya by Mr. Vladimir Petrovsky in December 1997 is a vivid description of a people under sanctions and the deprivations that have been inflicted on it for so long and without an end in sight. In this regard, we recommend the suggestions made in his report to start paving the way for a possible unblocking of the situation.

The decisions recently delivered by the International Court of Justice represent for many a breakthrough. These decisions provide an opportunity to view the Lockerbie incident and related issues in a new light. Perhaps the most significant implication is that the Court, through its decisions, has recognized the fact that the case surrounding this issue is not without a legal basis. This judgment is in itself a positive development in an issue that has been dragging on for too long. Malta awaits with earnest further developments in this issue, hoping that the legal and political instruments and measures provided by the Charter of the United Nations will lead to a just and fair solution to this sad episode in the not-too-distant future.

At this stage, we have to remind this world body that my country has, from the very beginning, showed its great sorrow towards and sympathy with the victims of the Lockerbie tragedy, and is also very sensitive to the continued psychological suffering of their relatives. We sincerely hope that eventual developments in this case will be just and equitable and to the satisfaction of all parties concerned in this tragic episode.

Member States of this Organization that have taken part or will take part in this debate consider it a revealing and new-found opportunity to give the political agenda of the United Nations a forward-looking, realistic and human dimension, particularly in the enforcement machinery of the Organization. Many have called for a more democratic and transparent United Nations. Today's opportunity is part of this evolving new identity. The new millennium beckons all of us to work together in the search for alternatives that will enhance the capacity of the United Nations to maintain world peace and order and guarantee basic human rights and fundamental freedoms, while avoiding the unnecessary humanitarian consequences of political and economic sanctions.

Malta once again would like to appeal to all Member States, particularly the members of the Security Council, to exhaust all diplomatic initiatives and all the tools of preventive diplomacy for the peaceful and equitable solution to problems, be they at the global, regional or national level, before deciding on implementing such measures as are contemplated in Articles 41 and 42 of the Charter.

Malta pledges its unbiased support and cooperation in the search for all possible avenues through which it could contribute actively and constructively to reaching a just, equitable and honourable solution to the issue under consideration.

The President: I thank the representative of Malta for his kind words addressed to me.

The next speaker is the representative of Algeria. I invite him to take a seat at the Council table and to make his statement.

Mr. Baali (Algeria) (*interpretation from French*): For the delegation of Algeria and for me personally, it is enormously gratifying to see a worthy son of Africa presiding over the Security Council's deliberations this month. Allow me to congratulate you warmly, Sir, and to wish you every possible success in your difficult but interesting task.

I also wish to express my admiration for another worthy son of Africa, the Ambassador of Gabon, who so skilfully and effectively led the Council's work at a moment when the entire world, with bated breath, had turned its eyes to our Organization.

I also wish to take this opportunity to welcome Mr. Muntasser, the representative of Libya, a sister State and the family members of the victims of Lockerbie, to whom we extend our sincere condolences.

For many years, the brotherly Libyan people has been subjected to a very severe embargo, the grave consequences of which are reflected in the daily life of the people, as well as in their health and well-being. These consequences are known to all, particularly since they were clearly described late last year in the report of Mr. Petrovsky, the Secretary-General's special envoy to Libya. Because of the ban imposed on Libya, which also affects the rest of the world, starting with us, the neighbouring countries, and which prevents entry into or exit from Libyan territory by air, the Libyan people has found itself cut off from the rest of the world, condemned to a tragic isolation for which it neither understands the cause nor sees an end.

Algeria most emphatically condemns terrorism whatever its form, manifestation or motivation and calls for a strengthening of international cooperation to tackle this terrible scourge of our times which threatens us all. My country has constantly stressed, in respect of the horrendous Lockerbie attack, the need to pursue and prosecute with all necessary rigour those who organized and perpetrated it and to establish the whole truth about the crime, which must not go unpunished.

Thus, together with all the Arab and African countries, it could not but express its satisfaction at seeing Libya, which has been urgently requested to extradite two of its nationals suspected of organizing the attack, declare its readiness to allow those nationals to be tried in a third country. Libya's proposals to this effect seem to us to be in keeping with an approach towards settling this dispute in a just, decent and honourable manner. The dispute has lasted too long already, so long that the families of the victims of this appalling attack — whose immense grief we share, as we share also the suffering of the fraternal Libyan people, with whom we feel solidarity, in the sufferings imposed on them — have almost come to despair of ever seeing it resolved.

What ultimately counts in this terrible tragedy is that the truth should be established and justice done. What matters for the families of the victims and for the international community as a whole is that the alleged terrorists should be tried, and if their guilt is established, that they should be receive an exemplary punishment so that cowardly attacks like this do not happen again. What also matters is that at the same time the unspeakable suffering of the Libyan people should cease.

By declaring that it has jurisdiction over the matter, the International Court of Justice has definitely just taken an important decision which Algeria cannot but welcome. We welcome it, first, because this decision will, we hope, mark the start of a process that will make it possible to break the deadlock over the matter and lead to a trial of the alleged perpetrators of the horrendous Lockerbie attack under conditions of equity, the establishment of the truth and the triumph of justice. We welcome it, secondly, because the long-awaited resolution of this tragedy should pave the way for the lifting of the sanctions, which are so severely afflicting the fraternal people of Libya, with which the Algerian people is in solidarity. We welcome it, finally, because the end of the Lockerbie crisis will have the effect of reducing tensions in the region and facilitating a return to the normality and stability our Maghreb needs so much.

Lastly, I hope that this decision of the International Court of Justice will prompt the Council and the General Assembly to engage in a healthy, serious and fruitful debate on the very principle of sanctions — which have shown their limits and, generally speaking, have served only to penalize civilian populations — and on arrangements and conditions for lifting them.

The President: I thank the representative of Algeria for his kind words addressed to me.

The next speaker is the representative of Indonesia. I invite him to take a seat at the Council table and to make his statement.

Mr. Effendi (Indonesia): On behalf of the Indonesian delegation, I should like to express our congratulations to you, Sir, on your delegation's assumption of the presidency of the Security Council for the month of March. We are confident that the diplomatic skills that you bring to this high office will facilitate the discharge of your weighty responsibilities.

My delegation has asked to participate in this debate to express its deep concern at the continuing dispute between Libya and some permanent members of the Security Council over the Lockerbie incident. Our concern is further heightened by the lack of progress, which has given rise to negative consequences. For the families who lost their loved ones, the stalemate in finding a just and fair solution has served only to prolong their agony and suffering. For the Government and people of Libya, the maintenance of sanctions during the past six years has taken a heavy economic toll. If the situation remains without a settlement, it may lead to tension and instability in the region and beyond.

It should be recalled that the sanctions imposed on Libya in 1992, which were subsequently expanded in 1993, include, *inter alia*, restrictions on civil aviation and diplomatic activities, and financial aspects such as the freezing of assets and the prohibition of imports of certain items of equipment deemed critical to Libya's socio-economic progress. Taken together, these and other punitive measures that have been applied against Libya for the last six years have resulted in considerable human and material losses for the people of Libya.

The situation in Libya is vividly described in the report of the Secretary-General's fact-finding mission to Libya (S/1998/201), which paints a sombre picture of the detrimental consequences of sanctions not only for the people of Libya but also for its neighbouring countries. As the report further makes clear, general economic conditions have steadily deteriorated, impinging upon such vital aspects as the country's gross domestic product, foreign investment and infrastructure. Consequently, the poverty and pestilence afflicting the people of Libya are at unprecedented levels. It is therefore incumbent upon the Security Council to undertake a reappraisal of the humanitarian dimension of the situation in Libya, mitigate the adverse impact of sanctions and consider ways and means of settling this crisis expeditiously and peacefully.

It is pertinent that since the beginning of the crisis Libya has consistently striven to fulfil its obligations under relevant Security Council resolutions and the provisions of the United Nations Charter. The measures taken by Libya have been widely acknowledged as significant contributions to clarifying the issues involved and promoting a peaceful solution. Libya has also expressed its readiness to cooperate with the efforts of regional and international forums in defusing the situation and in the endeavours to reach an amicable settlement. Thus, Libya has supported the initiative taken by the League of Arab States, which was endorsed by the Organization of African Unity and the Movement of Non-Aligned Countries. We remain fully convinced that acceptance of the initiative by the Security Council would serve not only the cause of justice but also the interests of the parties concerned.

In my delegation's view, a settlement of this dispute should also be sought on the basis of the Judgments delivered last month by the International Court of Justice, which upheld the legality of Libya's claims and also the applicability, in connection with the Lockerbie incident, of the 1971 Montreal Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation.

Regrettably, however, these balanced and well-meaning initiatives and recommendations by the international community and the new situation created by the Court's Judgments to facilitate a speedy and definitive resolution of the crisis were cast aside, leading to an impasse and to increased suffering for the people of Libya.

In the past, the periodic review was a routine procedure to continue the sanctions over an indefinite period of time. But this is no longer tenable, as the sanctions are having an increasingly devastating effect on the people of Libya, and especially on the vulnerable segments of their society — the elderly, women and children. As a rule, sanctions should be terminated once their original objectives have been achieved. In the present crisis, those goals have been accomplished, and any prolongation of sanctions would lead to the further worsening of the situation in Libya, ultimately benefit no one, and may even prove to be counterproductive.

Therefore, the time has come for the Security Council to take steps to achieve a breakthrough in the deadlock. We call upon the countries most directly affected to be flexible and to respond positively to the initiatives for dialogue and negotiations that would lead to an urgent, peaceful, just and comprehensive settlement of the crisis, and to refrain from actions that further exacerbate the situation.

Finally, the Secretary-General should be encouraged to exert his efforts in resolving the current crisis. A settlement of this dispute would not only end the plight of the Libyan people but also usher in a new era of peace, security and cooperation in the Mediterranean region and beyond.

The President: I thank the representative of Indonesia for the kind words he addressed to me.

The next speaker inscribed on my list is the representative of the Syrian Arab Republic. I invite him to take a seat at the Council table and to make his statement.

Mr. Abou-Hadid (Syrian Arab Republic) (*interpretation from Arabic*): Allow me at the outset, Sir, to convey to you our great happiness at seeing you presiding over this meeting as a sign of your appreciation of the importance of the item on the Council's agenda from an African, Arab and international point of view.

We cannot at this time fail to extend our thanks to the members of the Security Council, who agreed to convene this meeting. I should also like, on behalf of my country, to welcome the participation in this meeting of our brother Mr. Omar Mustafa Muntasser, the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya. There is no doubt that his participation lends particular importance to our discussion and to the question being debated by the Council.

We are meeting today to debate a legal question that was brought to the International Court of Justice by a State Member of the United Nations. The Arab States, including my own country, welcomed with a profound sense of satisfaction the decision handed down by the

Court at The Hague regarding the trial of the suspects in the Lockerbie incident, especially since it was handed down by the highest judicial organ in the world, one that has the greatest integrity and is a principal organ of the United Nations.

In this regard, I should like to remind members of a well-known statement made by the former Secretary-General of the United Nations in his Agenda for Peace:

> "The docket of the International Court of Justice has grown fuller but remains an underused resource for the peaceful adjudication of disputes. Greater reliance on the Court would be an important contribution to United Nations peacemaking." [*S/24111, para. 38*]

The Secretary-General of the League of Arab States stated, following the decision by the Court, that the imposition of sanctions against Libya by the Security Council gave a misleading impression, as if the suspects had already been tried. He considered that a contravention of one of the most important legal principles in force in all countries of the world, including the countries concerned in this matter, which provides that a suspect is innocent until proven guilty. My country welcomed those decisions with great satisfaction, because it feels that we have now embarked on the right path to deal with this crisis on a sound legal basis.

Here I should like to refer to the British newspaper *The Independent*, which stated that the real victors in the decision of the International Court of Justice were the relatives of the Lockerbie victims, who had become fed up with the Anglo-American stalling.

The Security Council is convened today to hear the views of the States participating in the debate. We had hoped that the Council would assume its responsibilities in full and debate all aspects of the question — not simply listen — in order to reach a just solution to this conflict. In this context, we would like to recall that Libya had initiated proceedings before the Court before the adoption of resolutions 748 (1992) and 883 (1993), and in good faith brought before the Court the dispute over the implementation and interpretation of the 1971 Montreal Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation.

We had expected international justice to have time to decide on this dispute after the definitive decision by the International Court of Justice. Unfortunately, the Security Council was pushed to adopt resolutions and to impose sanctions against Libya and on its fraternal people, who have been suffering the effects of these unwarranted sanctions for more than six years, with no hope of seeing light at the end of the tunnel.

Libya has made proposals for settling the question of Lockerbie, which shows its good intentions and positive stance with respect to finding a solution to this problem in a way that would guarantee the correct application of international and domestic laws. The Government of the Syrian Arab Republic expressed its support for these proposals because it felt that they would allow us to find an equitable and realistic solution making it possible to lift the unwarranted sanctions imposed against the fraternal Libyan Arab people.

The international community, represented by the League of Arab States, the Organization of African Unity, the Non-Aligned Movement and the Organization of the Islamic Conference, at their various summit conferences and other meetings at various levels, expressed support for the Libyan proposals. We now have before us three options endorsed by the League of Arab States and the Organization of African Unity. These options have enjoyed international support on a wide scale.

We feel that the options consisting of trying the suspects in a neutral third country to be designated by the Security Council, or of trying them by Scottish judges but at The Hague on the basis of Scottish law, or of trying them in an ad hoc court established for that purpose at the headquarters of the International Court at The Hague should lead to a solution that would fulfil the requirements of justice and international law.

We hope that the Council will seriously review these options and will put an end to this continuous human suffering that has lasted for more than six years. The Judgments by the International Court of Justice pave the way for a final settlement of the dispute over the Lockerbie question. Hence we feel that there no grounds for the Security Council to maintain the sanctions imposed against the Libyan people. In this light we feel that it is high time that the members of the Security Council, especially the parties concerned with this dispute, undertake measures to put an end to this suffering by lifting or freezing the sanctions pending a decision regarding this matter by the Court. This proposal was endorsed by the Ministers for Foreign Affairs at the twenty-fifth Conference of Foreign

Ministers of the Organization of the Islamic Conference, which recently concluded.

Let us work together in the spirit of international responsibility to apply the criteria equally and universally, avoiding selectivity and double standards. Before this international forum we emphasize the principles of equity and equality and the necessity for the resolutions adopted here to be applicable to everyone, with the same firmness and determination to preserve the credibility of the Council in undertaking its mission of maintaining international peace and security.

The President: I thank the representative of the Syrian Arab Republic for his kind words addressed to me.

The next speaker is the representative of the United Arab Emirates. I invite him to take a seat at the Council table and to make his statement.

Mr. Samhan Al-Nuaimi (United Arab Emirates) (*interpretation from Arabic*): It is a great pleasure for me on behalf of the United Arab Emirates to address to you, Sir, my heartfelt congratulations on your accession to the presidency of the Security Council for this month. I would like to thank you as well as the other Member States for having convened this meeting in order to consider the evolution of the Libyan affair and its most recent developments.

The United Arab Emirates feels that it must associate itself with the community of nations in expressing its deep regret at the great human tragedy which followed the attack on the United States Pan Am flight over Lockerbie in 1988. Today, as we hold this meeting, we must reiterate our strong condemnation of terrorism in all its forms and manifestations. This is a serious scourge that threatens the security and stability of States as well as the future and prosperity of mankind as a whole.

We have followed very closely the various developments in the Lockerbie crisis since its origin, a conflict between the Libyan Arab Jamahiriya, a fraternal country, on the one hand, and the United States and the United Kingdom, on the other. We were very concerned to see that this issue was not, apparently, moving towards any final, just settlement. On the contrary, the crisis has worsened, because we are still lacking a consensus on the question as to whether this is a political matter, which requires consideration in the Security Council, or a legal matter which is a matter of international law, international conventions, the principles of the Charter, and, first and foremost, the 1971 Montreal Convention.

Security Council resolutions 778 (1992) and 883 (1993) imposed mandatory sanctions against Libya, under Chapter VII of the Charter. They involved restrictions on the freedom of movement of diplomats and air traffic, a freeze on goods and assets, an embargo on equipment and so on and so forth. This has been an attempt to link Libya with terrorism not on the basis of undeniable legal proof but simply because that country detained two of its citizens who were suspect and requested that they be tried by an equitable tribunal.

Libya showed its good faith in opting for a peaceful settlement and vigorously condemning terrorism in all its forms and manifestations. It announced that it was completely prepared to cooperate with international efforts to eliminate this phenomenon. Libya also showed that it respected Security Council resolution 731 (1992) and declared that it was entirely desirous of cooperating in reaching a solution to this crisis with the other States concerned through negotiations and a judicial settlement. It was even willing to extradite the two suspects in order to bring them to a just and fair trial outside its territory by a neutral and impartial legal body — a solution that would make it possible for Libya to preserve its national sovereignty and its dignity, as stipulated in the Charter.

Libya presented positive and rational proposals which were accepted by the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement. But the other parties concerned refused these proposals, which constitutes an obstacle on the way to a just and equitable resolution of this question.

The sanctions regime — which Chapter VII of the Charter allows the Security Council to impose to resolve certain situations that are a threat to international peace and security — has proved to be unsuccessful. This is because, far from being a specific measure designed to sanction certain erroneous policies on the part of certain States who have breached international legality, these sanctions have effected vital spheres of activity for Libyan development.

Punishment has been inflicted on an entire people, in violation of the principles of the Charter and of international and humanitarian law. The sanctions have thus become a kind of sanction against the Libyan people as a whole, which deviates from the reasons why this regime was set up in the first place. The fact-finding mission that visited Libya between 13 and 18 December and was headed by the Secretary-General's personal envoy, Mr. Vladimir Petrovsky, reported on the human and material losses suffered by the Libyan people, particularly in the areas of health, education, agriculture, production, investment and development. These losses are the result of the sanctions imposed on Libya pursuant to Security Council resolutions 748 (1992) and 883 (1993) and have given rise to a human and social crisis of tragic dimensions and phenomena hitherto unknown in Libya, such as increases in the mortality rate and in the number of handicapped persons.

We therefore believe that these international measures imposed against Libya no longer have any justification, particularly after the Judgments handed down by the International Court of Justice on 27 February 1998, which have confirmed that this is a legal dispute within the jurisdiction of the Court, in keeping with the Montreal Convention of 1971.

That is why the United Arab Emirates, convinced of the need to strengthen the role of the International Court of Justice as a competent legal body to resolve disputes between States, would like to reiterate the following. First, there is a need to endorse the two Judgments of the Court, which are binding Judgments that pave the way to a final settlement of the Lockerbie question. Secondly, the necessary steps should be taken to follow up the two Judgments, *inter alia*, by reconsidering the question of sanctions against Libya and by suspending them immediately until a final decision has been taken by the Court making it possible to resolve this matter once and for all. Thirdly, the Security Council must adopt urgent preliminary measures to authorize some humanitarian flights to and from Libya, particularly those involving medical evacuations, the delivery of medicine and humanitarian aid and pilgrimages. Restrictions should also be loosened on imports of aircraft, spare parts for planes and equipment for agriculture and other vital services in order to meet the essential humanitarian needs of the Libyan people.

In conclusion, we would like to reiterate our support for the position of the brotherly Libyan people regarding the solution to this crisis, a position supported by the majority of the international community, particularly in the light of the Court's two recent Judgments. The United Arab Emirates hopes that the two States involved will participate in and contribute to the efforts and initiatives being made to resolve this crisis in keeping with the principles of the Charter and international law.

The President: I thank the representative of the United Arab Emirates for the kind words he addressed to me.

The next speaker is the representative of Kuwait. I invite him to take a seat at the Council table and to make his statement.

Mr. Abulhasan (Kuwait) (*interpretation from Arabic*): Allow me at the outset to express my gratitude to you, Sir, for convening this important meeting today. I would be remiss if I did not once again pay tribute to your excellent effort in presiding over the work of the Council and express my appreciation for your personal presence as Secretary of State for Foreign Affairs of your country.

This Council is discussing the Lockerbie case. It is indeed an important case which has drawn the attention of the international public opinion over the past few years. The Council has adopted three resolutions under Chapter VII of the Charter concerning this case, and Libya has also taken some measures in an attempt to respond to the resolutions adopted by the Council. Moreover, regional organizations, such as the League of Arab States and the Organization of African Unity, have made efforts and taken diplomatic steps over the past few years with a view to finding a way out of the problem in keeping with the relevant resolutions of the Security Council. The efforts culminated with those organizations' adoption of diplomatic options, options that have been submitted to the Council. The proposals have in fact elicited a positive response from many Member States of the United Nations.

The continuing situation and the lack of a solution have led to great suffering for the Libyan people. Kuwait regrets this suffering and shares Libya's hopes that it causes will come to an end. We also wish to express our sincere condolences to the families and friends of the victims of the incident.

At present, we believe that the case is entering a new phase that may help in finding a just solution satisfactory to all the parties concerned. I refer here to the two Judgments handed down by the International Court of Justice on 27 February 1998 confirming the existence of a legal dispute concerning the interpretation and application of the 1971 Montreal Convention on the

Suppression of Unlawful Acts against the Safety of Civil Aviation, and affirming the jurisdiction of the Court over the dispute on the basis of article 14 of that Convention, notwithstanding the adoption of Security Council resolutions 748 (1992) and 883 (1993), which do not contradict the jurisdiction of the International Court. We believe there have been developments in the case, which could be a beginning for the Council to re-examine the situation.

In this respect, we would like to reaffirm the following points. First, Kuwait believes that the implementation by all States of all relevant Security Council resolutions is essential if we wish to ensure respect for the Charter and support international legitimacy and the rule of law while maintaining peace and security in the world. Secondly, Kuwait fully rejects all forms of terrorism and wishes to express its sympathy for the innocent victims of terrorist acts and their families. Thirdly, Kuwait welcomes the Secretary-General's commendable efforts to find a solution to the problem, foremost among which is the dispatch of representatives to study the Scottish judicial system in order to ensure the integrity and available resources of the Scottish courts, which would guarantee a fair trial of the suspects in this case.

We wish to express our general satisfaction with the report of the Secretary-General's representative and commend Mr. Petrovsky, who was sent by the Secretary-General to Libya.

Fourthly, a positive view should be adopted concerning the decisions of the International Court of Justice, and they should be seriously considered by the Security Council in order to achieve progress. The International Court of Justice decision concerning its jurisdiction in the matter is a starting point for the achievement of the objectives of the relevant Security Council resolutions. Fifthly, within the framework of promoting close cooperation between regional organizations and the United Nations in the field of world peace and security, the Security Council should consider positively the options submitted by the regional organizations aimed at a speedy settlement of the case in order to alleviate the suffering of the brotherly Libyan people, with whom we fully sympathize.

In conclusion, allow me to reaffirm my country's full awareness of the importance of the role assumed by the Security Council in ensuring respect for the principles of the Charter and international legitimacy and their role in safeguarding world peace and security. We also wish to reaffirm the responsibility of all Member States in strengthening international legitimacy and the resolutions adopted by the Security Council.

Finally, we wish to thank God and to thank you, Mr. President.

The President: I thank the representative of Kuwait for his kind words addressed to me.

The next speaker is the representative of Yemen. I invite him to take a seat at the Council table and to make his statement.

Mr. Al-Ashtal (Yemen)(*interpretation from Arabic*): Allow me at the outset to congratulate you, Mr. President, on your delegation's assumption of the presidency of the Security Council for this month. We are confident in your statesmanship and your ability to guide the work of the Council in an exemplary manner, as did your predecessor, to whom we extend sincere thanks and appreciation. I commend your decision, Sir, to convene this open formal meeting to discuss the question of the embargo imposed by the Security Council against the Libyan Arab Jamahiriya unjustly and without a convincing legal reason.

There is no doubt that the entire world strongly denounces the terrorist acts that resulted in the explosion of Pan Am flight 103 and UTA flight 772 and we, too, condemn them. We express anew our full sympathy for and condolences to the victims of those two painful incidents and their families, affirming the importance of continuing investigations to identify the perpetrators so they can be punished for committing those terrorist acts, provided that the trial is held in accordance with the law and due process, which has not been the case so far.

On 21 January 1992 the Security Council, basing itself on Chapter VII of the Charter, adopted Security Council resolution 731 (1992), imposing sanctions on the Libyan Arab Jamahiriya, including an air embargo, because two Libyan citizens were suspected of being involved in the explosion of Pan Am flight 103 over Lockerbie in Scotland. The truth of the matter is that the Libyan Arab Jamahiriya has shown a remarkable degree of flexibility and cooperation by agreeing to a trial for its suspected citizens, while rightly insisting that the trial be held in a neutral and just manner, and anywhere other than the United States of America or Scotland.

The only response Libya received was insistence on the extradition of its citizens to be tried in the United States or Scotland. Thus, the unjust embargo from which the Libyan people have been suffering has remained in effect until now. While the Security Council has refused to reconsider the embargo it imposed on Libya, the Libyan Arab Jamahiriya has responded positively to regional organizations, including the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Movement of Non-Aligned Countries, expressing its readiness to cooperate in holding a fair trial of the suspects in the Pan Am explosion.

By way of continuing its diplomatic efforts, Libya resorted to the International Court of Justice, which handed down two Judgments on 27 February, affirming that the dispute is a legal one, that the competent authority is the International Court of Justice and that the legal frame of reference for this dispute is based on the 1971 Montreal Convention.

The Judgment handed down by the International Court of Justice in this case in which the Security Council has taken a definitive position, including the imposition of an embargo, was very timely, as the Security Council has recently begun to veer away from respecting international law and has tended to take such interested political positions that some have rightly wondered whether the Security Council has been transformed into an instrument in the service of certain States. We have recently noted that the Security Council has resorted to imposing the sanction of embargo without any precise criteria or legal bases and without defining a time-frame or a specific objective leading to the review or lifting of the embargo. That has occurred in the case of Libya, and it is tantamount to a collective punishment inflicted on the fraternal Libyan people.

We hope that the Judgment handed down by the International Court of Justice will be a turning point for the working methods of the Security Council, leading to a harmony between political positions and legal requirements based on the Charter.

In this vein, we hope that the Security Council will respect the Judgment handed down by the International Court of Justice and decide to lift or suspend the embargo imposed on Libya, while deferring the entire question to the consideration of the competent authority, in accordance with the Montreal Convention, which is the legal framework for this question.

The President: I thank the representative of Yemen for his kind words addressed to me.

The next speaker is the representative of Jordan. I invite him to take a seat at the Council table and to make his statement.

Mr. Abu-Nimah (Jordan) (*interpretation from Arabic*): At the outset, it is my pleasure to congratulate you, Sir, on your leadership of the Council. I am convinced that your wisdom, experience and diplomatic skills will undoubtedly ensure the complete success of the Council's work.

It is also my pleasure to thank your predecessor, the representative of Gabon, for his successful work during his tenure of the presidency last month.

The regrettable Lockerbie incident, which killed many innocent civilians in 1988, continues to have repercussions in the international community, as it awaits identification of those responsible for the crime, and the meting out of the most severe, firm and just punishment to them. My country, Jordan, has always stood against terrorism, rejecting it in all its forms and manifestations, condemning it clearly and unequivocally. Jordan has cooperated with all international efforts aimed at eliminating this hateful phenomenon of human behaviour. We continue to accord the struggle against terrorism top priority, for we have often been its victims. Within the same framework, we support all legislation and every effort aimed at protecting innocent civilians, wherever they may be, as well as any international legislation. We call on all international bodies concerned to pursue every perpetrator of terrorist activities against innocent people, regardless of whether such acts are the work of individuals, groups or States, and to compel them to assume the responsibility for their misdeeds. To us, these are matters of principle that are not subject to discussion or compromise. We reject terrorism and participate in every effort to foil it, calling for the punishment of all those who commit, encourage, abet or provide cover for it.

This international Organization and this Council, one of its most important organs, are founded on the principles of full integrity and absolute justice. We believe that every measure and resolution should be based on the principles of justice. There is a well-known logical development for any judicial process which begins with the investigation and then proceeds to the identification of suspects and their trial. When guilt is established, judgment is pronounced and punishment meted out. That is how responsibility can be defined and justice served.

I am not about to participate in the legal controversy that has gone on for years concerning the ways and means of bringing to trial the suspects in the Lockerbie case. I should like, however, to affirm a few principles based on the Judgments handed down by the International Court of Justice at The Hague on 27 February confirming the Court's competence to consider the Libyan complaint, as well as on what I stated at the outset.

First, we call on the Council to respect the Judgments rendered by the International Court of Justice in order to strengthen the Court's role in the peaceful settlement of disputes and conflicts on the basis of international law. We also stress the importance of respecting and implementing all Security Council resolutions fully and precisely, as this is a matter of commitment and principle.

Secondly, we believe that the imposition of strict and continuous economic sanctions on an entire people for years goes to the very heart of justice and fundamental human rights. It also causes great suffering for innocent civilians who have nothing to do with the crime whose perpetrators the Security Council rightly wishes to punish.

Thirdly, there is a feeling prevalent in our country that the economic sanctions that are imposed on millions of innocent people have not accomplished the purpose for which they were imposed. In fact, they have been completely counterproductive as they produce results opposite to those intended by generating bitterness, humiliation, a sense of injustice and despair among the peoples subjected to them. Such sanctions also result in a loss of confidence in this international Organization, whereas we all wish to promote and foster the trust of all peoples in it, in its justice and in its ability to protect peoples' rights, equally and on the basis of fairness, integrity and universal standards, not on the basis of selectivity and double standards.

Fourthly, I wish to reaffirm once again the need to pursue all the necessary legal and judicial means, under due process of law and within the framework of the many initiatives launched by the League of Arab States, the Organization of the Islamic Conference, the Organization of African Unity and other organizations concerned with solving the problem, with the identification of the perpetrators of the Lockerbie crime and with having them shoulder the responsibility for their act. I should like, however, to affirm that justice requires that the sanctions imposed on the Libyan people, who have suffered for years from the consequences of the embargo, be lifted or suspended, in order for the judicial process to run its course, and a decision to them be declared. We say this while sharing the grief of all the families of the victims, expressing to them our full sympathy for and understanding of their tragedy and their plight.

In conclusion, we are confident that this Council will find the appropriate way to deal with the case — a way that would secure justice, conform to the principles of the Charter, put an end to the injustice suffered by innocent people, attain justice for the victims of the tragedy, and banish the shadow of violence and terrorism from the world.

The President: I thank the representative of Jordan for the kind words he addressed to me.

The next speaker is the representative of Egypt. I invite him to take a seat at the Council table and to make his statement.

Mr. Elaraby (Egypt) (*interpretation from Arabic*): Allow me at the outset to express my delegation's pleasure at seeing you, Sir, the Foreign Minister of Gambia, presiding over this important meeting of the Security Council. It is also my pleasure to welcome Mr. Omar Muntasser, Minister for Foreign Affairs of Libya.

This formal meeting of the Security Council is also being attended by representatives of the victims of the Lockerbie incident. We hope that it will be the harbinger of a solution.

This meeting was convened in response to a request from Libya supported by both the Committee of Seven of the League of Arab States and the Committee of Five of the Organization of African Unity (OAU); those Committees are concerned with the dispute between Libya and the United States of America and the United Kingdom over the Lockerbie incident. The meeting is particularly significant in the light of the recent important developments in respect of the legal approach to the dispute. As previous speakers have recalled, the International Court of Justice handed down two important Judgments on 27 February last, both confirming, first, that there is a legal dispute between the parties concerning the interpretation or application of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and secondly that the Court has jurisdiction in that dispute on the basis of article 14 of the Convention. The Judgments also confirmed the admissibility of Libya's claim notwithstanding Security Council resolutions 748 (1992) and 883 (1993).

The overall legal situation, as taken up and decided by the highest international judicial authority, confirms that the dispute is in fact between Libya and the United States and the United Kingdom, as has been repeatedly stated by the relevant regional organizations ever since the crisis began. This was recently reaffirmed by President Mugabe, current Chairman of the Organization of African Unity, during the ministerial-level Security Council meeting on the situation in Africa on 25 September 1997; in the resolution adopted by the Council of Ministers of the OAU on 27 February last; in the resolution adopted by the Council of the League of Arab States last July; in the resolution of the Islamic Conference of Foreign Ministers at its session in Doha, Qatar, in March 1998, and the many statements of the Non-Aligned Movement, the most recent being that of the Ministerial Conference in New Delhi in April 1997.

The Montreal Convention, which the International Court of Justice determined is the instrument concerned, recognizes the principle of universal jurisdiction. Under that Convention, Libya is entitled to hold the trial on its own territory. Still, it has not taken this course, as a gesture of its goodwill and out of its belief in the necessity of reaching an understanding leading to the holding of the trial and the establishment of the facts. Furthermore, and this is an important matter, the results of the investigations undertaken by certain States have not been communicated to Libya, making it very difficult to hold a trial within an integral framework that would ensure justice.

Once more, I reiterate that the two Judgments of the Court confirm that the dispute is of a purely legal nature and, consequently, it should not be politicized. Moreover, an appropriate legal reading of the Judgments handed down by the Court on the Libyan claim and on the rejected American and British submissions clearly demonstrates that the Court has jurisdiction. Libya's submission to the Court predates the adoption of resolution 748 (1992), so it cannot be said that the provisions of the resolution supersede the jurisdiction of the Court.

The Charter clearly defines the functions and powers of the main organs of this Organization, including the International Court of Justice and the Security Council. Consequently, all these organs are governed by the constitutional framework set forth by the Charter. Although the Charter grants the Security Council vast powers in relation to its responsibility for the maintenance of international peace and security, nevertheless these powers should not, under any circumstances or any conditions whatsoever, extend to what would result in the imposition of collective sanctions against peoples and States on the basis of mere suspicion.

In this respect I must be very clear: no one is endeavouring to create, nor does anyone wish or intend to create or have an interest in creating, a constitutional crisis that would adversely affect the credibility of the Council or the dignity of the International Court of Justice. But the continuation of the form the Council has followed over the past few years with regard to reviewing the sanctions on Libya, resulting in a routine review without regard for new factors and developments, will ultimately lead to just such a crisis. Here, I must once again stress what Egypt has said during previous deliberations: it is essential for the sanctions regime in general to be substantively and comprehensively reviewed, because practical experience shows that it is in dire need of such a review, particularly in respect of the time-frame for the imposition of such sanctions and of their "automatic" renewal.

The only way out of the present impasse and to put an end to the suffering of the families of the victims, and of the brotherly people of Libya and the neighbouring countries, is to endeavour to give the suspects a fair trial while ensuring the integrity and fairness of the trial, in application of the principle of due process, which provides, as is well recognized in all judicial systems in all States, that a defendant is innocent until proven guilty. With the rendering of the two Judgments by the Court, the matter has now become abundantly clear, in that it is for the Court, and the Court alone, to settle the dispute, on the basis of the Montreal Convention, and to determine the venue of the trial.

It is worth noting that over the past few years there have been many tangible and positive developments towards implementing the relevant Security Council resolutions, particularly the following. First, one of the outstanding problems between Libya and the United Kingdom has been solved with regard to the United Kingdom's recent inquiries in connection with the Irish Republican Army. Secondly, the French magistrate has effectively completed his investigations, which pave the way for the French judiciary to undertake a trial *in absentia*. Thirdly, Libya has taken practical and tangible steps towards severing all relations with any groups which may be suspected of involvement in terrorist operations. Also, Libya continues comprehensively to reject terrorism in all its forms.

In its desire to do its part in seeking a just and speedy solution to the problem, Libya, in the context of responsiveness to the provisions of Security Council resolution 731 (1992) has accepted or put forward a number of initiatives and proposals, all of which have been adopted by the League of Arab States, the Organization of African Unity, the Non-Aligned Movement and the Organization of the Islamic Conference.

The Security Council must now assume its responsibilities and look into selecting one of the options that have been submitted. These are, first, to try the suspects in a neutral country to be determined by the Security Council not by Libya or any other State; secondly, to try them at the seat of the International Court of Justice at The Hague by Scottish judges and in accordance with Scottish law; and thirdly, to establish a special criminal court at the Court's headquarters at The Hague to try the suspects; that would be similar to the Tribunals for the former Yugoslavia and for Rwanda. Such options undoubtedly are serious and practical proposals in order to settle the dispute peacefully and without imposing further suffering on the families of the victims who, for long, have endured pain in the wake of the accidents, nine years ago.

That is why it is important for the States concerned to take into account the positive positions expressed by many of their nationals from among the families of the victims who consider it necessary to accept one of the options in order to achieve justice and establish the facts. Moreover, there is an urgent need, which cannot brook any delay, to put an end to the suffering of the Libyan people as a result of the sanctions and which was clearly reflected in the report of Mr. Petrovsky to the Secretary-General following his last visit to Libya, and an end to the damage sustained by neighbouring countries as well, resulting from the imposition of sanctions.

The Security Council cannot ignore what the International Court of Justice has decided on 27 February last. It cannot pretend that this development has never occurred. On the contrary, what the Court has decided is indeed an additional incentive to all the parties to the dispute to reach an agreement on the settlement and to proceed with the trial in a way that is acceptable to all parties. What is being requested now, after all these years, is for justice to be served and for truth to be revealed. This requires that the suspects should be tried speedily and in a venue conducive to the achievement of justice.

A reconsideration of the sanctions imposed on Libya has become an urgent matter at this stage, in order to prepare for the attainment of an agreement or until the objective and final Judgment of the Court on the dispute has been pronounced with regard to this dispute. This requires that a meeting of the Security Council be held as soon as possible to take such a decision, and to end the suffering of the Libyan peoples.

The President: I thank the representative of Egypt for the kind words he addressed to me.

The next speaker is the representative of Ghana. I invite him to take a seat at the Council table and to make his statement.

Mr. Wilmot (Ghana): I follow preceding speakers in expressing the pleasure of my delegation at seeing you, Sir, preside over this meeting, and I convey my gratitude for the opportunity to address the Council as it considers the Lockerbie affair.

Ghana condemns international terrorism in all its forms and manifestations in view of the dangers it poses to international peace and security. In particular we condemn all illegal activities directed against international civil aviation or that interfere with international civil air travel. We believe that all those responsible for any such activities must be apprehended and prosecuted in accordance with the relevant international law and conventions and within the framework of the United Nations Charter.

Security Council resolution 731 (1992) rightly condemned the destruction of Pan American Flight 103 over Lockerbie and of UTA Flight 772 and the resultant loss of hundreds of lives, and it sought the establishment of responsibility for the tragic incidents. It is in the search for those responsible that an issue has arisen. The parties directly concerned — namely, Libya, the United States of America and the United Kingdom — have put forward rival claims to exclusive judicial competence to establish responsibility and to do so in their own respective territories.

In the face of the rival claims and in an effort to advance the cause of justice, the Organization of African Unity, the League of Arab States, the Organization of the Islamic Conference and the Non-Aligned Movement have all at various times proposed a compromise mechanism that would allow for the determination of responsibility for the tragic incidents in a neutral venue by either a neutral judicial body or a judicial body of one of the parties.

Specifically, these bodies, which together constitute a large section of the international community, have proposed the following options: the first is to try those suspected to be responsible for the tragic incidents in a neutral third country to be designated by the Security Council; the second, that the suspects be tried by Scottish judges — that is, by the judges of one of the parties — at the seat of the International Court of Justice in The Hague, under Scottish law; and the third, to establish an ad hoc criminal court at the seat of the International Court of Justice at The Hague to try the suspects.

This proposal was formally presented to the Security Council on behalf of the Organization of African Unity by its current Chairman, His Excellency President Robert Mugabe, when he addressed the Council on 25 September 1997.

We call on the Council to give serious consideration to the proposal with a view to adopting one of the alternatives for immediate implementation in order to secure a speedy settlement of the dispute that would do justice to the victims, the bereaved families — with whom we deeply sympathize — and the suspects.

Security Council resolutions 748 (1992) and 883 (1993) imposed sanctions on one of the parties directly concerned, Libya, on the grounds that it had failed to provide a full and effective response to certain requests made of it in Security Council resolution 731 (1992) of 21 January 1992. What are these requests? They relate, *inter alia*, to certain judicial procedures carried out by the other concerned parties and which, among others, call for the surrender by Libya of the suspects in the tragic incidents for trial in the territories of those other concerned parties.

Libya's contention, among other things, is that the request for surrender of the suspects for trial in the territories of the other concerned parties infringes on its rights under the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. On the other hand, the Security Council resolution 731 (1992), and subsequent resolutions 748 (1992) and 883 (1993) imposing sanctions on Libya, all assume as their point of departure that there is no dispute between the parties concerning the interpretation or application of the Montreal Convention.

Article 14 of the Montreal Convention states:

> "Any dispute between two or more Contracting States ... which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

Availing itself of this article, Libya applied to the International Court of Justice (ICJ) after failing to secure settlement through negotiations or arbitration.

It is the understanding of my delegation that on 27 February 1998 the International Court of Justice in The Hague decided that a dispute indeed exists between the parties concerning the interpretation of the Montreal Convention. The Court decided further that it has jurisdiction to hear the dispute between the parties as to the interpretation or application of the provisions of that Convention.

The above decision of the International Court of Justice appears to us to weaken the foundations of the Council's resolutions 748 (1992) and 883 (1993), which imposed sanctions on one of the parties. For if, as is evident from the decision of the Court, there is a dispute as to judicial competence to establish responsibility for the tragic incidents, then it was premature for this Council to impose sanctions on one of the parties to the dispute in support of the rival claims advanced by the other parties.

We therefore disagree with those who hold the view that the preliminary, or procedural, judgement of the ICJ does not affect the Security Council resolutions imposing sanctions on one of the parties. In the light of the foregoing, we propose that the Council should, as a matter of urgency, revisit resolutions 731 (1992), 748 (1992) and 883 (1993) with a view to suspending or lifting the sanctions imposed on one of the parties pending the determination of the substantive issues involved in the dispute between the parties, or pending the establishment of responsibility in accordance with the fair and just compromise proposal advanced by the Organization of African Unity, the League of Arab States, the Organization of the Islamic Conference and the Non-Aligned Movement.

In conclusion, we wish to remind the Council that in exercising its responsibility for the maintenance of international peace and security, it does so on behalf of all the Member States of the United Nations, as stipulated in Article 24 of the Charter. Therefore, to retain its legitimacy, the Council ought to take cognizance of the reasoned views and sentiments of the wider membership, which in this case call for an end to sanctions against Libya and the pacific settlement of the dispute over the Lockerbie affair.

The President: I thank the representative of Ghana for his kind words addressed to me.

The next speaker is the representative of the Democratic People's Republic of Korea. I invite him to take a seat at the Council table and to make his statement.

Mr. Li (Democratic People's Republic of Korea): The delegation of the Democratic People's Republic of Korea is of the view that the issuance of the Judgments of 27 February 1998 by the International Court of Justice concerning the dispute between Libyan Arab Jamahiriya and the United States and the United Kingdom over the Lockerbie incident should be seized as an important occasion to further highlight the principle of impartiality in the activities of the United Nations.

The Democratic People's Republic of Korea is consistently opposed to terrorism in all its manifestations and, at the same time, to every act of infringement of the sovereignty of Member States that imposes unjust pressure against them under the pretext of "anti-terrorism".

It is on this basis that my delegation wishes to underline its position on the Libyan issue.

Through the Security Council's adoption of the resolutions against Libya following the crash of Pan Am flight 103 over Lockerbie, Scotland in 1988, the Libyan issue has continuously been the source of controversy in the international arena for the last several years.

The imposition of sanctions under the Security Council resolutions has resulted in immeasurable suffering by the Libyan population and in threats to their lives. Furthermore, it has had serious negative impacts on neighbouring third countries. With the passage of time, the imposition of sanctions, which may be characterized as collective punishment, gives rise to doubts as to whether such an act can be legally justified or morally condoned.

In this connection, my delegation deems it necessary to reflect upon the process by which resolutions 748 (1992) and 883 (1993) — resolutions in which the Security Council condemned Libya for its terrorist acts and called for the imposition of sanctions — were adopted.

Both the United States and the United Kingdom allegedly referred to two Libyans as criminals responsible for the Lockerbie incident and demanded that Libya surrender them for trial in either of those countries. But Libya rejected such a demand, citing international laws and practices. Nevertheless, the Security Council has gone so far as to hastily adopt the resolution calling for Libya to surrender its two nationals and deciding upon the imposition of sanctions.

The process of handling the Lockerbie incident so far reminds me of the European proverb that "might is right", and it furthermore casts a doubt about the responsibility and credibility of the Security Council, whose primary mission is to maintain international peace and security.

Claims of Libyan involvement in the Lockerbie incident are no more than allegations, and Libya has strongly rejected these allegations. Then how could anti-Libyan resolutions be adopted?

Were there really no ways and means of settling the dispute peacefully? Were sanctions the only choice of the Security Council — a choice which led to eventual confrontation and the sufferings of innocent people?

The current dispute over the Lockerbie incident is a vivid example showing that as long as the principles of justice and impartiality are disregarded in dealing with international issues, disputes will remain unresolved indefinitely and only result in the sufferings of innocent people.

The United Nations was born with the noble ideal of resolving international issues not by recourse to strength, but on the principles of justice, objectivity and impartiality. These principles are the lifeline of the United Nations. My delegation believes that it is all the more important to resolve the present Libyan issue through dialogue and negotiations based on the principles of justice and impartiality, in view of the fact that the super-Powers are directly involved in this issue.

So far, Libya, the Organization of African Unity and others have put forward a series of proposals aimed at resolving the issue peacefully. My delegation undoubtedly believes that they could best serve the purpose of fairly resolving the Libyan issue. For a fair resolution of the issue, the parties concerned should have the political will to sit down face to face to resolve the issue peacefully and explore reasonable solutions in a sincere manner. Experience has proved that dialogue is more effective than confrontation and that reason always prevails over strength and coercion. My delegation takes this opportunity to reiterate its principled position that all disputes can and should be resolved on the principles of international justice, objectivity and impartiality.

In conclusion, my delegation wishes to express its sincere expectation that the Judgment of the International Court will serve as momentum for a fair and peaceful solution to the Libyan issue through dialogue, and that the parties concerned will avail themselves of the Judgment to the fullest possible extent.

The President: The next speaker is the representative of Iraq. I invite him to take a seat at the Council table and to make his statement.

Mr. Hamdoon (Iraq) (*interpretation from Arabic*): At the outset, I am very pleased to see you, Sir, presiding over this important meeting of the Council and would like to express my gratitude to you. I would also like to express my gratitude to the delegation of the fraternal Libyan Arab Jamahiriya, led by Minister Omar Muntasser, whose initiative it was to call for the convening of this open formal meeting of the Security Council.

We would also like to thank all those who supported that initiative, especially the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement. Regrettably, it seems that it was necessary to pool all these efforts in order to obtain the agreement of the Security Council to convene a plenary meeting at which Member States of the United Nations would be allowed to express their views on the question before the Council, despite the fact that the Council acts on behalf of these States under Article 24, paragraph 1, of the Charter, and that Article 31 of the Charter gives States that right.

Since the beginning of what has been called the era of wild turmoil after the severe disruption of the international balance brought about by the fall of the Soviet Union various sanctions regimes have given rise to major legal, ethical and political problems. From the legal point of view, the problem is that sanctions continue even when they are no longer justified, assuming there was a justification to begin with. From the political point of view, it is that the resolutions of the Security Council imposing sanctions have been transformed into an instrument in the service of the narrow political objectives of a single State. From the ethical point of view, it is that these sanctions have become a means of imposing collective punishment against innocent civilians, especially in Iraq and Libya.

The sanctions imposed against Libya and Iraq represent a model of these problems. The sanctions were imposed against Libya because of the mere suspicion of the involvement of two Libyan citizens in the heinous terrorist act called the Lockerbie incident. Thus, they were based on suspicions and not on established facts, and they therefore have no legal justification. At the same time, these sanctions, since their inception in 1992, have inflicted great suffering on the Libyan people. The fact-finding mission dispatched by the Secretary-General to the Libyan Arab Jamahiriya in December of 1997 reported on the widespread adverse effects of the sanctions on the social welfare of the people and on the economy of the country, especially as regards social services and public health, which were greatly affected by the prohibition on air travel. In addition, the sanctions did not provide the long-awaited answers for the families of the victims of the Pan Am flight.

There is also the problem relating to the implementation of the Security Council resolutions. After the adoption of resolutions 731 (1992), 748 (1992) and 883 (1993), the United States and the United Kingdom insisted that Libya hand the suspects over to them, although resolution 731 (1992) did not include any explicit provision calling upon Libya to surrender the suspects.

For its part, Libya has launched numerous positive initiatives in keeping with the spirit of these resolutions. Those initiatives were supported by the League of Arab States, the Organization of the Islamic Conference, the Organization of African Unity and the Non-Aligned Movement, as well as by the Security Council itself. But the United States and the United Kingdom insisted on disregarding these initiatives that were supported by the majority of the international community. They insisted that Libya carry out what they referred to as the will of the international community. Our question is, if the Libyan proposals, which are endorsed by more than 140

States, do not represent the will of the international community, then what does?

Then there is the problem of reviewing the sanctions regime. These reviews are undertaken in a closed consultations meeting. They are supposed to be undertaken in an open, formal meeting so that the international community can tell whether the Council was faithful to the mandate entrusted to it under Article 24, paragraph 1, of the Charter in expressing its will regarding the keeping or the lifting of sanctions.

These closed reviews begin by an expression of the majority of the Council members of their welcome of the positive developments, and they call for accepting one of the proposals made by Libya. But they regrettably end with the well-known statement that there is no consensus on introducing any change in the sanctions regime.

This begs the question: why is a consensus required to change the sanctions regime? Was this consensus required when the sanctions were imposed? The answer is no. Resolution 748 (1992) was adopted with only 10 votes in favour, while 5 States abstained, including a permanent member. Resolution 883 (1993) was adopted with only 11 votes in favour, while 4 States, including a permanent member, abstained.

The mechanism used to review the sanctions gives one State the possibility of blocking the consensus. It is possible that this situation can go on indefinitely, as long as this State has its own political agenda vis-à-vis the target State. Faced with this problem, the General Assembly adopted without a vote, on 15 September 1997, resolution 51/242. This resolution and its annexes laid the foundations to be used in considering the imposition of sanctions and reviewing the sanctions. Paragraph 3 of annex II provides for the following:

> "The Security Council has the ability to determine the time-frame of sanctions. This question is of the greatest importance and should be seriously considered in connection with the objective of changing the behaviour of the target party while not causing unnecessary suffering to the civilian population. The Council should define the time-frame for sanctions regimes taking these considerations into account."

If the international community in its entirety is agreed on the need for a time-frame for the sanctions, what prevents the Security Council from implementing that so as to be really faithful to the will of the international community?

Recently, there has been an important development that necessitates breaking the vicious circle of the sanctions, by which we mean the decision of the International Court of Justice on 27 February 1998, in which it declared its competence to consider this dispute. This decision asserted that the entire question relates to interpretation and implementation of the 1971 Montreal Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation. This means that the International Court is capable of pronouncing itself on it, and there is no justification for continued resort to coercive measures under Chapter VII of the Charter.

Therefore, it is imperative now to stop the coercive measures pending the issuance of a judgment by the International Court of Justice deciding the case before it. Resolutions 748 (1992) and 883 (1993) did not invalidate the role of the Court. This latter is the major judicial organ of the United Nations, as provided in Article 92 of the Charter. It is inadmissible to invoke actions under Chapter VII to block the powers of the Court. The Charter defined the powers of the Court and the powers of the Security Council, and it is inappropriate for any organ of the United Nations to depart from its constitutional frame defined by the Charter.

We call on the Security Council to adopt a resolution suspending the sanctions imposed on Libya, because the persistence of the current crisis without solution and the continued imposition of sanctions on Libya are fraught with grave dangers to peace and security in the area and in the world.

The President: The next speaker is the representative of Mauritania. I invite him to take a seat at the Council table.

Mr. Ould Deddach (Mauritania) *(interpretation from Arabic)*: Allow me first to convey to you, Sir, my thanks for holding this plenary meeting, which offers to the members of the international community, without distinction, the opportunity to exchange views on an important question which concerns all and greatly disturbs many people, and that is the issue which has come to be known as the Lockerbie crisis.

The nature of this dispute and its development over more than seven years call on the family of nations to consider seriously, with greater objectivity and flexibility, how to go about finding a just and lasting solution that will be respectful of the rights of all the parties involved. My country, along with the member States of the League of Arab States, the Islamic Conference, the Movement of Non-Aligned Countries, the Group of 77 and the Organization of African Unity, feels that the blockade imposed on the Libyan Arab Jamahiriya is not the best solution to the dispute and that it transforms an essentially legal issue into a political problem with incalculable ramifications.

The blockade, which still continues, represents a collective punishment being borne by the population as a whole. Its repercussions have spared none of the Maghreb countries. That is why the family of nations, headed by this Council is being urged to lift the sanctions. We feel that the Lockerbie crisis is a legal matter and needs to be returned to its proper context, as was confirmed by the International Court of Justice in its two Judgments of 27 February.

In the light of these facts, we believe it is necessary to seriously consider the three options presented by the League of Arab States and the Organization of African Unity as a basis for a solution to the crisis. First, try the suspects in a country to be chosen by the Security Council; secondly, try them at the seat of the International Court of Justice at The Hague, in accordance with Scottish law and by Scottish judges; and thirdly, establish an ad hoc criminal court to try them at the Court's seat. We believe that these three options would open the way to a fair solution to this affair.

The President: I thank the representative of Mauritania for the kind words he addressed to me.

The next speaker is the representative of Pakistan. I invite him to take a seat at the Council table and to make his statement.

Mr. Kamal (Pakistan): It is my pleasure to address the Security Council for the second time this month under your distinguished presidency, Sir.

We have before us today an issue of far-reaching international legal significance. By its two Judgments issued on 27 February 1998, the International Court of Justice has decided that it has the necessary jurisdiction to deal with the merits of two cases brought by Libya against the United Kingdom and United States under the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

The background of this dispute, involving Libya on the one side and France, the United Kingdom and the United States on the other, lies in the destruction of Pan Am flight 103 over Lockerbie on 21 December 1988, in which 270 innocent people were killed. The Lockerbie tragedy shocked the entire world. We deeply mourn the death of those who lost their lives in this tragic disaster. We also deeply sympathize with the bereaved families who lost their near and dear ones as a result of the incident. That dispute now affects the entire international community following the imposition of sanctions against one of the parties to the dispute on the behest of the other three parties.

In this connection, Chapter VI, Article 33 of the United Nations Charter is relevant. This Article states that disputes between States must be resolved

> "first of all, [by] seek[ing] a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice".

It would be legitimate to ask if all these options had been exhausted before sanctions were imposed on Libya.

Under Chapter III, Article 7, of the Charter, the International Court of Justice has been established as one of the principal organs of the United Nations. In Article 92 of the Charter, the International Court of Justice is described as "the principal judicial organ of the United Nations". It is obvious that disputes of a legal kind must be presented to and decided by this Court alone. In fact, Article 96 of the Charter states that when the United Nations itself is faced with a legal problem, either the General Assembly or the Security Council may also request an advisory opinion of the International Court of Justice. This shows the significance which the authors of the United Nations Charter attached to the International Court of Justice in the arbitration of legal issues.

Under Article 7 of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, States have been empowered to prosecute alleged offenders, including in the country where the alleged offender might be residing. Article 7 of the Convention thus accords to the States Parties to the Convention the competence either to extradite the suspect or to prosecute the suspect.

From the two judgments of the International Court of Justice, it can be inferred, first, that the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal in 1971, provides the legal framework for the case; and secondly, that the International Court of Justice has a role because the parties differed on whether the destruction of the Pan Am aircraft was governed by the Montreal Convention or not. A legal dispute of a general nature concerning the Convention thus existed between the parties.

Specific disputes also existed concerning the interpretation and application of Article 7 of the Convention relating to the place of prosecution and of Article 11 of the Convention relating to assistance in connection with criminal proceedings. The International Court of Justice's Judgment has established that Security Council resolutions 748 (1992) and 883 (1993) did not preclude the admissibility of the cases because the State party concerned had filed its application prior to the adoption of those resolutions.

The Security Council needs objectively, dispassionately and comprehensively to examine the implications of the International Court of Justice's Judgments. For the international community, those Judgments constitute a historic development in the evolution, interpretation and growth of international law.

The Security Council also needs to give serious consideration to the question of whether the sanctions it had imposed on a State Party to the Montreal Convention in 1992 are still required. Furthermore, the Security Council should reconsider whether it can remain seized of an issue which is now *sub judice* in the International Court of Justice. It is a universal norm of jurisprudence that political or administrative organs of a legal system withhold action on a matter which is pending before the relevant judicial organs or institutions of that system.

The Member States recognize the Security Council's powers to impose sanctions under Chapter VII. However, in this context, attention is drawn to General Assembly resolution 51/242, annex II, paragraph 1 of which describes sanctions

> "as a useful international policy tool in the graduated response to threats to international peace and security".

The General Assembly also stipulated that sanctions should be resorted to only with the utmost caution, when other peaceful options provided by the Charter have been exhausted, and, in the next paragraph of annex II, urged the Council to establish the sanctions

> "with clear objectives ... and precise conditions for their lifting".

In addition, in paragraph 5, it stressed the need to minimize unintended adverse side effects on the civilian population. The purpose of sanctions should be

> "to modify the behaviour of a party that is threatening international peace and security and not to punish or otherwise exact retribution".

We therefore feel that, in accordance with the International Court of Justice Judgments, the parties to the dispute should take recourse to the legal framework provided by the Montreal Convention of 1971 and extend their full cooperation to the Court to decide the case on merits. The Judgments of the International Court of Justice provide a viable way out to address this important issue amicably.

The President: I thank the representative of Pakistan for the kind words he addressed to me.

The next speaker is the representative of Zimbabwe. I invite him to take a seat at the Council table and to make his statement.

Mr. Mapuranga (Zimbabwe): My delegation is delighted that you, Sir, the Foreign Minister of the Gambia, are presiding over these proceedings.

Zimbabwe sympathizes and empathizes with the bereaved families of the victims of international terrorism. My country has stated before, and reiterates today, its deeply rooted stance against all forms of terrorism, whether perpetrated in the air, on land or on the high seas. We have also stated that we share the fundamental principle of jurisprudence that a suspect is considered innocent until proven guilty.

Today we are meeting following a historic ruling by the International Court of Justice. The two decisions of the Court on the dispute between the Libyan Arab Jamahiriya, on the one hand, and the United States of America and the United Kingdom, on the other, over the Lockerbie incident constitute a turning point in this dispute and should pave the way for a fair, just and peaceful solution.

Those decisions, in our view, have effectively ended the diplomatic dispute concerning jurisdiction over the Lockerbie affair and have provided a firm basis for the removal of the sanctions, which have brought untold suffering and hardship to the innocent people of Libya for seven years now.

We have once more listened to the voice of Africa through the representative of the Secretary General of the Organization of African Unity (OAU). Previous speakers have referred to the statement delivered to this Council on 25 September last year by the current Chairman of the OAU, my own President, Robert Gabriel Mugabe. We in the OAU have consistently invoked the universal trend towards peace and détente in the post-cold-war era and called for a peaceful resolution of all issues, including this crisis. In the letter addressed to the President of the Security Council by the Minister for Foreign Affairs of Zimbabwe in his capacity as Chairman of the OAU Committee of Five on this matter, the OAU renewed its call on the Security Council to consider seriously the three compromise options submitted jointly by the OAU and the League of Arab States, and supported by the Movement of Non-Aligned Countries and the Organization of the Islamic Conference. Those options are holding the trial of the suspects in a third and neutral country to be determined by the Security Council; having the suspects tried by Scottish judges at the International Court of Justice at The Hague, in accordance with Scottish law; and establishing a special criminal tribunal at International Court of Justice headquarters at The Hague to try the suspects.

The Government of Libya has proved flexible and well disposed towards these compromise proposals. It has even stated that it does not question the fairness of Scottish law and the integrity of Scottish judges. The Libyan Government insists on a neutral venue.

At this crucial stage we call upon the Security Council to maintain the momentum generated by the two historic International Court of Justice decisions by removing the sanctions regime, which, besides causing a great deal of suffering among the Libyan people, continues to impart a confrontational rather than a conciliatory tone to the whole dispute. It is time the International Court of Justice was given a chance to exercise its jurisdiction in order to bring this matter to a definitive conclusion.

The President: I thank the representative of Zimbabwe for his kind words addressed to me.

The next speaker is the representative of Namibia. I invite him to take a seat at the Council table and to make his statement.

Mr. Andjaba (Namibia): It is most gratifying to see you, Sir, presiding over this important meeting of the Council. Allow me to express also my delegation's thanks and appreciation to you and to the other members of the Council for convening this important meeting. We look forward to what we trust will be a fruitful outcome.

On 25 September last year, at that historic ministerial meeting of the Security Council on the situation in Africa, which was held in this very Chamber, the President of the Republic of Zimbabwe, Mr. Robert Mugabe, in his capacity as Chairman of the Organization of African Unity (OAU) raised many issues which concern Africa. Among them was the Lockerbie tragedy and the issues which have emanated therefrom.

Similarly, on many occasions Namibia has continued to express its concern over this issue.

We in Africa do not condone gross violations of human rights, nor do we seek to trivialize the loss of life from that tragedy. Indeed, the pain emanating from the loss of life in that tragedy will remain, and in this connection I wish to take this opportunity to express our profound sympathy to the families of the victims who lost their lives in that tragedy. The international community should leave no stone unturned in establishing the truth in this matter. The perpetrators of this horrendous act of terrorism should not go unpunished.

Furthermore, we should work together to avert the continued suffering of many other innocent third persons who continue to suffer as a result of the continued sanctions imposed on Libya. It is unfortunate that those sanctions were imposed even before the suspects could be proved guilty by a court of law.

An impasse on this matter will prolong the pain and agony for all concerned; hence, Africa has already, at the highest level, declared its readiness to assist in moving the matter along. We do so in our resolve to transform Africa from a continent of conflict and gloom to one of hope and peace, stability and development.

The Security Council has an important duty to fulfil: that of maintaining international peace and security. In addition, however, with regard to Africa, in so doing we all should learn from present and past conflicts there. As the Secretary-General of the OAU stated here on 25 September last year, we should heed the calls made by African leaders. Only then can we prevent sparks from turning into a blaze.

The United Nations therefore has, by its Charter, a responsibility and moral obligation towards the African continent. It is that responsibility that we all must seek to uphold. We wish to reiterate the position of the OAU that the agreement by Libya for its two suspected nationals to be tried under Scottish law by Scottish judges in a third country or at the International Court of Justice, should now receive the Council's serious consideration so that the matter can be resolved equitably. Thus Namibia welcomes the two Judgments issued by the International Court of Justice on 27 February 1998 on the Lockerbie case. It is our fervent hope that this recent development will help in breaking the impasse.

Finally, the meeting of the OAU Council of Ministers, which concluded in Addis Ababa on Saturday, 28 February 1998, among other things, reconfirmed the staunch position urging the States concerned to take concrete action to ensure a rapid and definitive settlement of the disaster. The Council of Ministers also reiterated its urgent appeal to the Security Council to quickly lift the sanctions unjustly imposed on the people of Libya.

The President: I thank the representative of Namibia for the kind words he addressed to me.

The next speaker inscribed on my list is the representative of Morocco. I invite him to take a seat at the Council table and to make his statement.

Mr. Snoussi (Morocco) (*interpretation from French*): At the outset I should like to convey to you, Sir, our warmest congratulations on your assumption of the presidency of the Security Council and to wish you every success in your functions. I should like also, if I may, to congratulate your predecessor for his able and clearsighted guidance of the work of our Council last month. The skill and wisdom with which he conducted the consultations and the actions of the Security Council at a time when the world feared the worst have won the admiration of one and all and will remain in our memories, and in the memory of our community, for a very long time. Lastly, I should like also to welcome the presence of Omar Muntasser, the Foreign Minister of the Libyan Arab Jamahiriya.

In their statements, my colleagues had the opportunity to thoroughly discuss legal aspects and the new light that the recent Judgments of the International Court of Justice have shed on this unfortunate Lockerbie affair. My country and my Government bow respectfully to the memory of those who fell victim to those unforgivable acts, which took the lives of more than 200 innocent people. At the time of the adoption of the original resolution on the sanctions, we denounced the acts of terrorism that had led to that tragedy of vast proportions.

Libya, for its part, has denounced and deplored such acts and has consistently, in a manner that has been deeply appreciated, contributed to combating terrorism in all its forms — a phenomenon denounced by the entire world. This clear determination to cooperate with the international community, as requested by the Security Council, was not, unfortunately, accompanied by any easing of the sanctions regime that has been imposed on the fraternal Libyan people, who have already paid a very heavy price. The countries of the Maghreb themselves have also suffered from the consequences of the sanctions imposed on Libya.

As for the suspects, who, in the view of international public opinion, still remain suspects, I should like to note that we have witnessed — first as a member of the Security Council and then as a member of the Arab Group, the African Group and the Non-Aligned Movement — all the attempts that have been made to find a just solution that is acceptable to one and all and that respects international laws and customs.

Libya has never refused to have the suspects brought to trial. It simply maintains a different position — a warranted one, we believe — with respect to the venue for the trial of those suspects. Very reasonable and serious proposals have been put forward in this connection.

Libya proposed to initiate, under the auspices of the Secretary-General, negotiations with the countries concerned in order to organize the trial of the suspects in a neutral country acceptable to both parties — but in vain.

Libya also suggested that the Secretary-General be charged with setting up a collegial body, composed of judges well known for their neutrality and their integrity, to determine the truth of the charges levelled against the two suspects, and that if their guilt were to be established, they would be handed over to a third country under the supervision of the Secretary-General. Lastly, Libya proposed that the matter be brought to the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference, or the Non-Aligned Movement, in accordance with Article 33 of the Charter.

The various regional groups, for their part, proposed options aimed at finding a solution that would put an end to the dispute and to the sufferings that have been imposed on the innocent Libyan people.

They all proposed these options: to hold the trial of suspects in a third and neutral country to be determined by the Security Council; to have the suspects tried by Scottish judges at the seat of the International Court of Justice at The Hague, in accordance with Scottish law; or to establish a special criminal tribunal within the International Court of Justice to try the suspects.

We are convinced that the recent decisions of the International Court of Justice, in contributing to the culmination of the efforts made by the international community, will afford the Security Council a better grasp of the true dimensions of this conflict in which an entire people continues to suffer and to be punished.

In voicing the hope that this debate will take place, the various players involved, such as my country, are motivated by the desire to see the Council consider new approaches and new procedures. The initiative taken recently by the Secretary-General in the matter of the inspections in Iraq undoubtedly is a good omen. The assistance, the openness and the understanding that has been displayed by the parties to the conflict we are dealing with today should be emphasized and should inspire us with fresh hope.

The decisions taken by the International Court of Justice in connection with this matter are not intended as either a challenge or an act of hostility towards the Security Council or its prestige. The Judgments of the International Court of Justice should be regarded as a success indeed for the United Nations and all of its organs, because those decisions are strengthening in a timely manner our credibility and our ability to remain objective and impartial.

For these reasons, it would seem highly desirable for us, having heard the views of numerous countries from all corners of the globe, to take a moment to reflect on how inhuman and inequitable is the systematic procedure of simply renewing the sanctions every 120 days. We should also realize that, given the various proposals that have been made, both before and after the decisions of the International Court of Justice, a solution is within our grasp.

These decisions are, above all, an opportunity for the international community to find an equitable and legally respectable solution to a conflict in which the Libyan people have been, as we have said, unjustly punished. In the meantime, the greater part of the international community will deem it completely logical, wise and justified that the sanctions be suspended, if not outright lifted. It has been 10 years that relatives have been waiting and six years now that the sanctions have inflicted great suffering upon an entire people. And if this situation continues while we overlook what happened at the International Court of Justice, the very prestige of this Organization may well be called into question.

Let us not lose any more time. Let us, therefore, put an end to the sufferings a people and assuage the grief of all those families who all want to know and want to see justice — real justice — done.

The President: I thank the representative of Morocco for his kind words addressed to me.

The next speaker is the representative of Tunisia. I invite him to take a seat at the Council table and to make his statement.

Mr. Hachani (Tunisia) (*interpretation from Arabic*): Allow me, first, to congratulate you, Sir, on assuming the presidency of the Council for this month — you, the representative of a friendly country. And I would like to congratulate you on the ideal way in which you are conducting our deliberations. I also deem it my duty to pay tribute to what was undertaken by His Excellency the Ambassador of Gabon, a friend, in chairing the Council last month. I also welcome the presence of His Excellency Mr. Muntasser, Secretary of the General People's Committee for Foreign Liaison and International Co-operation of the Libyan Arab Jamahiriya.

The Security Council is meeting today in this public session at the request of the Libyan Arab Jamahiriya, officially supported by the Committee of Seven of the League of Arab States and the Committee of Five of the Organization of African Unity, both of which committees have been entrusted by these two large and important regional organizations to follow up on what is referred to as the Lockerbie case. This formal open meeting of the Security Council is of particular importance because it is the first of its kind since the beginning of the crisis, and it is taking place following important developments which happened at the end of last month in the form of the two Judgments by the International Court of Justice dealing with the interpretation and application of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation — Judgments that also confirm the jurisdiction of the Court.

Undoubtedly, after the pronouncement of the two Judgments by the highest judicial authority on an international level, and until this Court looks into the substance of the case, the case itself has entered a new, unprecedented stage. The international community cannot continue its work in this regard without taking into account that the position of the Court accords with the essence of what several groups and States, including Tunisia, have expressed in terms of their sincere wish and in terms of the relentless efforts over the past few years to reach a just settlement which would establish the facts and preserve, within the bounds of international legitimacy, the rights and interests and the dignity of all parties concerned in the case, including the families of the victims, to whom we extend our sincere condolences. In this respect we also wish to mention the efforts undertaken by the League of Arab States and the Organization of African Unity, which submitted joint proposals to find an honourable solution. In fact, these proposals — which the Libyan side expressed a readiness to accept — were also supported by the Organization of the Islamic Conference and the Non-Aligned Movement, along with several other Member States of the United Nations.

Following the Judgments rendered by the International Court of Justice on 27 February last, we have entered a new stage which makes it incumbent upon us all, particularly the Security Council and its members, to reflect on how to deal with the Lockerbie situation in the future in keeping with this new fact. In this context, Tunisia believes that it has become urgent to find a just and honourable solution, a speedy one, to put an end to the sufferings of the fraternal Libyan people resulting from the embargo, and to put an end to the consequences of the Lockerbie crisis in the neighbouring countries and for security and stability in the whole region, in a manner serving the aspirations of all their peoples for building their common future.

The President: I thank the representative of Tunisia for his kind words addressed to me.

The next speaker is the representative of Guinea-Bissau. I invite him to take a seat at the Council table and to make his statement.

Mr. Da Gama (Guinea-Bissau) (*interpretation from French*): Allow me first and foremost to congratulate you, Sir, on serving as President of the Security Council for the month of March. And I would like to say on behalf of my country, Guinea-Bissau, how gratified we are to see you chairing our deliberations. I would like to call to mind the excellent bonds of friendship, cooperation, fraternity and good-neighbourliness that, I am happy to say, exist between our two countries. Our congratulations also go to your predecessor, Ambassador Denis Dangue Réwaka, Permanent Representative of Gabon, for the outstanding manner in which he conducted the work of the Council last month.

It has been a little more than six years since the Security Council, in its resolution 748 (1992) of 31 March 1992, imposed sanctions on Libya, subsequently reinforcing them by means of resolution 883 (1993) of 11 November 1993.

My delegation welcomes the constructive and resolute attitude that prompted the members of the Security Council to hold for the first time a public debate on this question. They are thus giving all parties an opportunity to express their points of view on this sensitive and important political, moral and humanitarian issue.

We feel that it has become necessary to respond favourably to the needs of the Libyan people and to the readiness being displayed by that country to settle the Lockerbie affair in a just and honourable fashion, within the framework of the proposals made by the League of Arab States, the Organization of African Unity and the Movement of Non-Aligned Countries. These proposals are conducive to finding an equitable settlement grounded in international legality and are capable of ending the suffering of the fraternal Libyan people.

My country, Guinea-Bissau, has constantly expressed concern with respect to coercive measures, the humanitarian effects of which may injure innocent populations.

No one could raise the question that is now under consideration without recalling the Lockerbie tragedy and the suffering of the families of the victims of that horrendous act. However, it is nonetheless true that a large number of people, both within Libya and in neighbouring countries, continue to suffer the consequences of the continual sanctions imposed on that African country. This situation further compounds the economic difficulties of these countries and impedes the socio-economic progress of their peoples. My country reaffirms that it condemns terrorism in all its forms, whether perpetrated by individuals, armed groups or others.

Today the people of Libya are turning to the Security Council in the hope that their cause will be heard and that hands will be outstretched to them to extricate them from the difficult situation they have been suffering for more than six years as a result of the sanctions imposed by the Council.

We wish accordingly to commend to the Libyan authorities on the dispassionate and cooperative attitude they have displayed, an attitude which assures that the right of the victims will be respected and justice will be done in accordance with universally accepted norms.

My country is of the view that the principles of imposing sanctions on Libya should be reconsidered in the light of the Judgment of the International Court of Justice dated 27 February concerning the admissibility of Libya's application to this highest organ of international jurisprudence. We wish to see the whole matter scrutinized once again in an open and constructive spirit based on the facts and taking into account the truth of the matter. In this respect, we would in turn urge the Security Council to study diligently, impartially and with detachment the joint proposals of the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement, which envision mechanisms capable of ensuring due process for the suspects, in order to ensure that justice is done in unimpeachable conditions, which guarantee the right of the victims and their families to know the whole truth and permit the lifting of sanctions.

The President: I thank the representative of Guinea-Bissau for the kind words he addressed to me.

The next speaker is the representative of the Sudan. I invite him to take a seat at the Council table and to make his statement.

Mr. Erwa (Sudan) (*interpretation from Arabic*): At the outset, I would like to congratulate you and your fraternal country, Sir, on your assumption of the presidency of the Council for this month. I would like to thank you personally for your guidance of the Council. We would also like to take this opportunity to pay tribute to His Excellency the Ambassador of Gabon and the staff of his Mission for their leadership of the Council during the past month.

I would also like to welcome Mr. Muntasser, the Secretary of the People's Committee for Foreign Liaison and International Cooperation of our fraternal country, the Libyan Arab Jamahiriya.

The Sudan believes that the peaceful settlement of disputes in accordance with the provisions of the Charter of the United Nations is a necessity in the context of the maintenance of international peace and security. This is a concept that is in keeping with Article 33, paragraph 1 of the Charter, which states:

> "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."

This is why the Sudan believes that the Security Council is, first and foremost, duty-bound to compel the parties to the conflict to settle their dispute by peaceful means, if that is their wish.

Such is the role that developing countries believe the Security Council should assume in order to resolve peacefully many of the conflicts on the Council's agenda, and especially the question of Lockerbie which is now under consideration. Resorting to the policy of sanctions, which makes the principles of equity a pretext for hegemonic forces to use double standards by imposing sanctions on weaker countries without the necessary objective and legal conditions being met, constitutes a violation of the principles and values of justice enshrined in the Charter and contempt for the international conscience.

Faithful to its principles, and because of its commitment to Africa, the Arab world and the Non-Aligned Movement, the Sudan supports all the proposals and initiatives advanced to find a peaceful settlement to the Lockerbie crisis. We particularly support the joint initiative of the Organization of African Unity and the League of Arab States, which was expressed clearly before this Council by Mr. Robert Mugabe, current

Chairman of the Organization of African Unity, on 25 September 1997, during the ministerial meeting devoted to Africa.

The Judgment handed down by the International Court of Justice in February 1998 regarding its competence and the admissibility of the issue has reaffirmed the juridical character of this item. The Sudan therefore invites the Security Council to assist the Court by giving it the necessary time to examine the case and find an appropriate legal and peaceful solution to the dispute, and to lift the sanctions against the Libyan Arab Jamahiriya or suspend them until such time as the conflict is resolved.

The Judgement of the International Court of Justice regarding its competence in this case demonstrates beyond a doubt that this conflict is incontrovertibly of a legal nature. It disposes of any dissenting opinions or doubts about the role of the Security Council regarding this issue. Notwithstanding the fact that the Council could have come to this conclusion, given the evidence before it, without the Court's Judgment, the Judgment has disposed of any doubts that might have subsisted. It is therefore incumbent upon the Security Council to assume the sacred duty bestowed upon it by the Charter of the United Nations and refer the case to the International Court of Justice in accordance with Article 36, paragraph 3 of the Charter, which is clear and unequivocal in this regard.

It is time for the international community, within the international legal framework and in accordance with the principles of the Charter and the objective initiatives, to seek a solution to the Lockerbie crisis, particularly since the maintenance of sanctions against Libya has direct consequences which prolong the sufferings of the families of the victims, the Libyan people and the neighbouring countries.

We must take into consideration the Secretary-General's report on the Libyan Arab Jamahiriya, which stresses the humanitarian consequences of the sanctions, particularly as those consequences undermine the very principle of the concept of international justice.

In conclusion, the delegation of the Sudan pays tribute to the Security Council for agreeing to call this meeting, which is an important step towards strengthening the transparency so much desired in the Council's work. It is time for the Security Council to decide on lifting or suspending the sanctions against Libya until such time as the International Court of Justice considers the case in an objective manner.

The President: I thank the representative of the Sudan for his kind words addressed to me.

The next speaker inscribed on my list is the representative of Nigeria, on whom I now call.

Mr. Gambari (Nigeria): Permit me, at the outset, to join those who have spoken before me to congratulate you on your assumption of the presidency of the Security Council for this month. Coming from the same subregion of Africa, we are doubly confident that under your able leadership the deliberations of the Council will be conducted in a manner that will ensure justice and will enhance the principles and purposes of the United Nations. I also commend your predecessor for the excellent work he did as President. We also wish to welcome warmly His Excellency Omar Mustafa Muntasser of the Libyan Arab Jamahiriya.

My delegation welcomes the opportunity to participate in today's formal discussions on this very important matter of the long-standing dispute between the Libyan Arab Jamahiriya on the one hand and the United Kingdom and the United States on the other. As you are aware, my country is deeply concerned that this dispute has not yet been resolved, thereby prolonging the anguish of the two sets of victims affected by this tragedy: the families of those who lost their lives in the Lockerbie air disaster, on the one hand, and the families of ordinary Libyans who bear the brunt of the sanctions imposed on Libya by the Security Council, on the other.

That is why Nigeria seizes every available opportunity to contribute to the process of finding a just solution in accordance with the provisions of the Charter of the United Nations and the principles of international law, as well as respect for the sovereignty and integrity of Member States, whether they are big or small, weak or powerful.

Today's meeting is taking place in the aftermath of the two landmark Judgments issued by the International Court of Justice on 27 February 1998, in which the Court confirmed its jurisdiction in the Lockerbie case under the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. In effect, these two Judgments support the argument that the Lockerbie case, being a legal issue, should be deliberated upon by the International Court of Justice. Indeed, it is important to recall that the five members of the Security Council who abstained from voting on Security Council resolution 748 (1992) of 31 March 1992 had advised that the dispute be handled under Chapter VI of the Charter, which provides that disputes of a legal nature should, as a general rule, be referred by parties to the International Court.

My delegation is of the opinion that the Libyan Government has demonstrated sufficient flexibility to meet the demands of the United States and the United Kingdom, with a view to finding a just settlement of this dispute. By so doing, Libya has been supported by the Organization of African Unity (OAU), the League of Arab States and the Organization of the Islamic Conference (OIC).

Therefore, my country wishes to appeal to the two members of the Security Council most directly affected to demonstrate commensurate flexibility in order to reach a just and fair settlement of the case under Chapter VI of the Charter. We should not lose sight of the fact that the families of the victims want to see justice done as soon as possible, and we all know that justice delayed is indeed justice denied. Unfortunately, the rejection to date by the United States and the United Kingdom of all proposals from Libya for holding the trial in a place that meets the requirements of neutrality and impartiality has led to the delay in the trial of the two suspects.

Regarding international terrorism, the entire world must be united in condemning it. It must not be tolerated. Nigeria is opposed to all forms of international terrorism, especially as it impacts on innocent peoples. It is on record of the Security Council, however, that Libya has taken a firm and unequivocal stand against such acts by whoever perpetrates them. Libya has also pledged full and positive cooperation with regional and international efforts to combat this dreadful crime. We shall hold them to their words and actions.

In conclusion, my delegation believes that since the International Court of Justice has confirmed its competence to deal with this case, it should be allowed to do so without further delay. Meanwhile, we would like to join the many others in calling for the suspension or lifting of the sanctions against Libya which have had devastating effects not only on the targeted country's innocent civilian population, but also on the region as a whole and even beyond. The Court's ruling supports the argument that the sanctions, which appeared to pre-empt a definitive legal ruling on the case, should not have been imposed in the first instance and there is now no justification for their continuation before the case is heard by the Court.

Finally, my delegation wishes to remind members of the Security Council of their very heavy responsibility when they act on behalf of all the 185 members of this United Nations. It is only right and just that every decision taken by this Council in these times should be able to withstand the careful scrutiny of all Member States, on whose behalf the Council is acting. Otherwise, the very legitimacy of Council decisions would be seriously undermined. The ripples of any hasty decisions by the Council forced on it by a determined minority, however powerful, would have far-reaching implications which could damage the credibility and image of our Organization, with dire consequences for international peace and security.

The President: I thank the representative of Nigeria for his kind words addressed to me.

The next speaker on my list is the representative of India. I invite him to take a seat at the Council table and to make his statement.

Mr. Sharma (India): Allow me, Sir, as other speakers have before me, to express our satisfaction as seeing you preside over this meeting.

Very few countries have suffered as much as India has from terrorism sponsored, aided and abetted by other States. For us, therefore, condemnation of terrorism is not only a matter of principle. We know, from the bitterest experience, how heavy a toll terrorism exacts, and we also know that, unless there is international cooperation to combat it, terrorism, which is a global menace, cannot be countered by States acting alone.

We therefore took part actively in negotiating the International Convention for the Suppression of Terrorist Bombings, which the General Assembly adopted in December last year, and look forward to its early entry into force. We also hope that, in due course, the international community will be able to negotiate binding legal instruments that would outlaw all acts of terrorism, enabling effective action against it under international law.

Among the terrorist attacks India has endured, we have suffered several of the type of the Lockerbie disaster. In 1955, an Air India flight, which had been expected to carry the Prime Minister of China, Mr. Chou En-lai, but did not, was destroyed in flight by a bomb. It was suspected that agents of a State which wanted to assassinate the Chinese Prime Minister committed this act of terrorism. They were never brought to book. In 1971, an Indian Airlines flight was hijacked to a neighbouring country and destroyed on the ground. In 1985, an Air India 747 was blown up over the Atlantic by a bomb planted by terrorists operating from foreign soil.

We understand therefore the outrage of the countries whose nationals were the victims of the Lockerbie disaster. Far too many of our citizens have known the pain and shock of having members of their families killed in random acts of terror. We know, therefore, and sympathize deeply with the anger that the relatives of those who died on the Pan American flight feel and understand their determination to see the guilty punished. And as a democracy we know that, in the face of a strong public demand on Governments to act, the Governments of the United States, the United Kingdom and France must not only respond, but be seen by their citizens to be taking vigorous action.

However, the point at issue is to ensure that criminals and terrorists are tried and receive punishments commensurate with their crimes. As long as this is assured, it should not be a matter of contention where they are tried. The Convention on the Suppression of Terrorist Bombings has not yet entered into force, but all Members of the United Nations participated in its drafting and, since the resolution was adopted by consensus, presumably there is no objection to its contents. Both it and the 1971 Montreal Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation provide for universal jurisdiction and, in particular, stipulate that each State Party shall take measures to establish its jurisdiction over offences defined in those Conventions either when the offence was committed on its territory or on board an aircraft registered under its laws, or if the offence was committed by a national of that State.

In the Lockerbie case, this means that, under the first option, the United Kingdom can seek to establish its jurisdiction; under the second, the United States; and under the third, Libya. Clearly, there is a conflict of jurisdiction, and that is at the heart of the problem which the international community has been unable to resolve since 1992. The Conventions also stipulate that if a dispute arises between the Parties on the interpretation or application of the Conventions, and arbitration is not possible, any of these Parties can refer the dispute to the International Court of Justice. We had hoped that a pragmatic decision could have been taken which would have expressed the united will of the international community to bring terrorists to book. Instead, decisions taken by this Council have deeply divided the international community, and the accused still await trial.

There is no question that the international community is at one in condemning the terrorism on which the present issue hinges. Security Council resolution 731 (1992), which condemned the act of terrorism, was adopted unanimously in the Council. When resolution 748 (1992), which imposed sanctions on Libya, was being negotiated, India, as the Coordinator of the Non-Aligned Movement caucus in the Council, worked hard to bring about a resolution that best promoted the interests of the international community. Our efforts were not successful and we were among the five countries that abstained on resolution 748 (1992). In 1993, when resolution 883 (1993) was adopted, imposing additional sanctions on Libya, four members of the Council abstained. The pattern of support for these three resolutions demonstrated that, while the Council was unanimous in condemning acts of terrorism, on sanctions it was divided.

In the explanation of our vote on resolution 748 (1992), we spelled out three reasons why we had abstained. Firstly, the definition of the circumstances under which the sanctions either would not be enforced or would be lifted was left vague; secondly, the judicial process had not yet run its course; and lastly, the resolution did not incorporate a clear acknowledgment of the duties of the Security Council towards third countries affected by sanctions, as spelt out in Article 50 of the Charter. These points remain valid.

Six years have passed since sanctions were imposed on Libya. The International Court of Justice, in its recent Judgment, has ruled that it has jurisdiction and so will consider the matter further. It is in the interest of all of us to let the judicial process take its course and to bring the perpetrators of the crime to justice as swiftly as possible. A long procedural wrangle on where the trial should be held serves no one's purpose; it has simply meant an indefinite imposition of sanctions on people who are innocent, causing them immense suffering.

Since the decision of the International Court of Justice, which we hope will address the substantive issues with despatch, has removed the original reason for which sanctions were imposed, we trust that they will be lifted. The impasse over the last few years has the potential of needlessly sowing discord between two Charter bodies — the Security Council and the International Court of Justice — and serves no one's purpose either. We therefore hope that pragmatic decisions will be taken which would permit the early and fair trial of the accused in an open and credible judicial process, acceptable to the international community.

The President: I thank the representative of India for the kind words he addressed to me.

The next speaker is the representative of the United Republic of Tanzania. I invite him to take a seat at the Council table and to make his statement.

Mr. Mwakawago (United Republic of Tanzania): May I first congratulate you, Sir, on your accession to the presidency of the Council for this month.

We make our appearance before the Council today on an issue of considerable significance to the Organization of African Unity and its membership. We therefore come with great hope and expectation. We join those who have called for the suspension of sanctions imposed upon Libya pursuant to Security Council resolutions 748 (1992) and 883 (1993).

My Government continues to be highly sympathetic to the plight of the families of the victims of the terrorist bombing of Pan Am flight 103 over the town of Lockerbie in Scotland on 21 December 1988. They deserve justice and we have an obligation as members of the international community to ensure that they obtain nothing less. It is therefore a matter to be regretted that in almost a decade since the tragic incident little progress, if any, has been scored in that regard. This unfortunate state of affairs now continues to be compounded by the negative impact of the resolutions under review on the innocent civilian population of the Libyan Arab Jamahiriya.

The search for justice for that horrible incident does not have to create unwarranted additional victims. My Government and the Organization of African Unity, of which the Libyan Arab Jamahiriya is a member, have sought a peaceful settlement of the dispute surrounding the Lockerbie tragedy. It is our view that the Libyan Arab Jamahiriya deserves credit for agreeing to proposals supported by the Organization of African Unity and the League of Arab States which offer three options: one, trial of the two Libyan suspects in a third and neutral country to be determined by the Security Council; or, two, trial of the two suspects at The Hague by Scottish judges under Scottish law; or, third, the establishment of a special tribunal at the International Court of Justice in The Hague to try the two suspects.

These proposals, which have subsequently been supported by the Non-Aligned Movement, surely present a way of bringing to trial those suspected of being involved in the Lockerbie bombing and therefore bringing the dispute to a peaceful resolution. My Government welcomes the recent ruling by the International Court of Justice that it has competence over the petition submitted by the Libyan Arab Jamahiriya. We urge the parties to continue to support the Court's justifiable engagement in the issue. My Government also continues in good faith to urge the other parties to consider those options, plus the new situation arising from the ruling of the International Court, with utmost seriousness. The Libyan Arab Jamahiriya has expressed concern that its two nationals cannot receive an impartial trial in either the United States or the United Kingdom. These concerns cannot be dismissed lightly. In our view, the recommended proposals offer a practical and suitable compromise.

There is nevertheless a very fundamental consideration even as we appeal to the Security Council to suspend its sanctions over Libya. Three of the permanent members are parties to the dispute. The appeal we make inevitably relates to their respective national perspectives on the problem. And yet we must trust in the ability to weigh that consideration against their international obligations. We all have a stake in what happened at Lockerbie. The cowardly act was an affront not only to the safety of aviation, but to our efforts to combat international terrorism. The sanctions imposed on Libya can no longer be justified given the Libyan willingness to release the suspects for trial at a neutral venue.

In conclusion, our approach to the Council is rooted in our respect for the Charter of the United Nations and the legitimacy of the Council and its decisions under Chapters VI and VII. We are nevertheless keenly aware that the Council's legitimacy and the overall efficacy of its sanctions could suffer a devastating blow if the larger members whose common interest it is to represent perceive it as acting unjustly.

The Organization of African Unity and the Non-Aligned Movement have taken the position that continued sanctions against Libya cannot be justified in light of the compromise proposals for a settlement. Consequently, concession by the Council in this matter will not weaken but strengthen both its legitimacy and the respect for international law.

The President: I thank the representative of the United Republic of Tanzania for his kind words addressed to me.

The next speaker on my list is the representative of Cuba. I invite him to take a seat at the Council table and make his statement.

Mr. Rodríguez Parrilla (Cuba) *(interpretation from Spanish):* Allow me to congratulate you, Sir, and to wish every measure of success for the very effective presidency of the Gambia. I should also like to acknowledge the important contribution made by Gabon and to hail the presence among us at this meeting of the Minister for Foreign Affairs of the Libyan Arab Jamahiriya.

In times of change and reform, when principles such as transparency and democracy would appear to be the aim of the major negotiations taking place in this Organization, the holding of formal and open Security Council meetings to debate any item on its agenda should constitute a normal and daily practice. Therefore we are glad that the unjustified obstacles initially placed in the way of this meeting have indeed been overcome.

We began this meeting with a minute of silence. We interpret that to mean, above and beyond a way of honouring the memory of the victims of the case before us today — which we endorse — that we are also honouring the memory of all victims of terrorism, quite apart from who they were and whence they came.

On this occasion Cuba endorses the support offered by the Movement of Non-Aligned Countries and the response given by the African Group and the Arab Group to the request submitted by Libya that the Security Council hold a formal meeting to consider all aspects of the enforcement of Council resolution 748 (1992), whereby a sanctions regime was established against that country.

In the opinion of Cuba, the convening of this formal Council meeting, supported also by other countries, is of extraordinary importance. It reflects a dimension which goes beyond the particular purpose for which it was convened, because it comprises a number of aspects each of which is valid and has its own merits.

The request by Libya embodies the exercise of the right that all Member States of the United Nations have to request a formal meeting of the Security Council to consider matters they deem to be in their interest. It also reflects the discharging of the Council's duty to gather to hear the concerns of a Member State and to deal with the causes that warrant a request to hold a formal meeting of this body.

In the case of Libya, we are dealing with the request of a Member State which is the target of sanctions applied under a Council resolution the enforcement of which is being prolonged, resulting in serious consequences and having both economic and social impact on Libya as well as other Member States of the United Nations, which under the Charter have had to support the implementation of the sanctions adopted by the Council.

We are also talking about the new situation emerging in the specific case of the sanctions imposed against Libya as a result of the recent Judgment handed down by the International Court of Justice.

Cuba welcomes the two Judgments handed down by the Court, which confirmed the jurisdiction of the chief juridical body of the United Nations in the Lockerbie case, the tragic incident of the Pan Am aircraft in 1988. These jurisdictional Judgments place the dispute in its proper perspective.

The Security Council and the sanctions Committee against Libya have periodically reviewed the sanctions regime imposed by resolution 748 (1992). However, at the conclusion of such analyses, both the Security Council and the sanctions Committee determined that there was no agreement to eliminate the sanctions regime imposed against that country. The interests of certain permanent members of the Security Council have prevailed, and as a result the sanctions regime imposed against Libya remains unchanged.

The failure to resolve this dispute has many causes. One of them is the Council's failure to recognize either the solutions proposed by the Government of Libya or the efforts made by the various regional organizations, Governments, international figures and groups of States to shed light on the incident and to further the quest for a just solution acceptable to all parties.

The lifting of the sanctions against Libya has been held hostage to decisions and unilateral conditions imposed by some permanent members of the Security Council, which have arrogated to themselves the right to determine that other sovereign States do not have the right to try their own nationals. And certain States, which perhaps consider themselves more sovereign than the rest, appear to enjoy competency enough to judge and try the citizens of any country of the world.

The sanctions imposed over all these years by the Security Council against Libya represent an example of the actions this body should be eschewing and one of the phenomena justifying the in-depth reform of this principal body of the United Nations.

Cuba takes the view that the sanctions imposed against Libya must be lifted. We reject the imposition of sanctions that reflect political interests and that ignore the real means of peacefully resolving controversies among States, as stipulated by the Charter of the United Nations.

Cuba agrees that the incident involving the Pan Am flight must be clarified in order to respond to the concerns and legitimate desire for justice of the international community as a whole. However, for that same reason, we reject and always will reject the double standard and dual morality of those who insist on clarifying the causes of that incident while acting from positions that further their political interests, which are not always legitimate.

Our country has been the victim of, and witness to, the lack of consistency in the actions and resolutions of the Security Council. Still fresh in our minds and in the institutional memory of this Organization is the denunciation reiterated by Cuba in 1992 before the Council with respect to the 1976 downing in mid-flight of a commercial Cubana de Aviación airliner as a result of a terrorist attack in Barbados that took the lives of 73 people, in the face of the flexibility shown on the territory of a permanent member of the Security Council with regard to the self-confessed mastermind of that barbaric deed.

On that occasion, the Council did not take a stand, and there was no shortage of statements by certain important permanent members urging that that denunciation not be considered because the incident has occurred many years previously. If the humanitarian concerns that some permanent members of the Security Council profess were in earnest, and if the same interest in seeing justice done were shown in all cases, then at that time the dimensions alone of the deed would have sufficed for the Council to take a stand against one of the most repugnant and vile crimes in the history of the acts of aggression committed against the people of Cuba.

Cuba supports the request submitted by Libya and is in favour of an open debate, in the context of the Security Council, on all aspects of resolution 748 (1992) and of the sanctions imposed against that country. The role of the United Nations and that of the Security Council is not to serve as a tool for the powerful to further their political agendas. The real objective of the United Nations and the Security Council is to see to it that justice and fairness in international relations are applied to all sovereign States equally, and that the principles of sovereignty, territorial integrity, sovereign equality and non-interference in the domestic affairs of States are respected without limitations or restrictions.

The President: I thank the representative of Cuba for the kind words he addressed to me.

The next speaker inscribed on my list is the representative of Oman. I invite him to take a seat at the Council table and to make his statement.

Mr. Al-Khussaiby (Oman): Allow me to extend to you, Mr. Minister, my sincere congratulations on your assumption of the presidency of the Security Council for this month. I am confident that your diplomatic skills and vast experience will lead the work of the Council to a successful conclusion.

I should like to take this opportunity to pay special tribute to your predecessor, His Excellency Ambassador Denis Dangue Réwaka of the Republic of Gabon, and to the members of his delegation for the exemplary manner in which they steered the work of the Council in the previous month. May I also take this opportunity to welcome the presence of His Excellency the Minister of the Libyan Arab Jamahiriya as well as the seriousness shown by him and his Government during the deliberations in this important debate of the Security Council.

The Security Council is convening today to consider a very crucial matter regarding the Lockerbie crisis, which claimed the lives of hundreds of innocent people on board a Pan Am plane. Having expressed its deep concern over the occurrence of such a tragic event, the Sultanate of Oman firmly condemns all forms of terrorism and stands beside the efforts of the international community aimed at eliminating this dangerous phenomenon, which targets the lives of innocent people. There is no doubt that the security and the safety of civilians and of civil aviation are of paramount importance.

The international community expressed its deep grief and sympathy towards the victims of this tragic event.

For its part, the League of Arab States, as one of the international forums responsible for achieving peace and security in the region, has expressed its firm readiness to cooperate with the Secretary-General of the United Nations and with the Security Council to reach a peaceful solution to this crisis through mandating the Committee of Seven to follow up the developments of this crisis, to exert every effort to prevent its escalation, and to find a just and peaceful solution to this problem in accordance with relevant international law.

In his statement, the Permanent Observer for the League of Arab States to the United Nations explicitly stated the position of the League in this regard. Other regional groups such as the Organization of African Unity, the Non-Aligned Movement and the Organization of the Islamic Conference have also supported the position of the League of Arab States in this regard and have exhibited a similar concern towards alleviating the humanitarian sufferings of the people as a result of the sanctions imposed against the Libyan Arab Jamahiriya in accordance with the relevant Security Council resolutions.

The increasing worldwide attention given to this matter reflects the profound concern and preoccupation of the international community with the gravity of this crisis. While reaffirming our commitment to the principles of the relevant international laws and resolutions of the Security Council regarding prosecuting the perpetrators of these crimes, we would like to call the attention of the international community to the initiative proposed by the League of Arab States and the Organization of African Unity in this regard.

Justice must be served for the families of the victims and in the achievement of a solution deemed acceptable to all parties concerned. Over the past seven years of this crisis several initiatives have been made with the goal of achieving a peaceful solution to this problem. However, this crisis is still going on, with all its negative impact on the people of the Libyan Arab Jamahiriya, on the families of the victims, and on the neighbouring countries as well. We would like to take this opportunity to commend Libya's readiness to cooperate with efforts to combat terrorism and to attain a peaceful settlement to this crisis through constructive dialogue and by ensuring the prosecution of the suspects of these tragic events before neutral and impartial tribunals.

Finally, in concurrence with the initiatives and proposals submitted by the Organization of African Unity and the League of Arab States — and in view of the humanitarian sufferings of the people of Libya as a result of the continuation of the economic sanctions imposed against the Libyan Arab Jamahiriya and of the families of the victims in the aftermath of this crisis — we believe that the time has come for the Security Council to suspend its sanctions regime, in light of the two Judgments of the International Court of Justice. Moreover, special consideration should be accorded urgently to the humanitarian needs of the Libyan people to exercise, at this time, their religious rights and to have access to facilities for medical treatment abroad, along with other urgent matters. We also call upon all parties concerned to show more flexibility and wisdom towards reaching a just and peaceful settlement to this crisis.

The President: I thank the representative of Oman for his kind words addressed to me.

The next speaker is the representative of the Islamic Republic of Iran. I invite him to take a seat at the Council table and make his statement.

Mr. Nejad-Hosseinian (Islamic Republic of Iran): May I associate myself with preceding speakers and congratulate you, Sir, the distinguished Prime Minister of Gambia, on assuming the leadership of the Council in March. We look forward to a successful and concrete result to emanate from this debate in the Council — a hope that we think is quite realistic and achievable for two good reasons: the debate is being carried out under your able and skilful leadership, and the case at hand has reached a stage where chances are great for a peaceful and amicable solution.

May I also take this opportunity to express appreciation to the Ambassador of Gabon for the exemplary manner in which he guided the work of the Council in February.

I would like to express sympathy to the bereaved families of the innocent people who lost their lives in Pan Am flight 103 and UTA flight 772.

The Government of the Islamic Republic of Iran welcomes the Judgments issued by the International Court of Justice on 27 February 1998 on the "Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie" between the Libyan Arab Jamahiriya and the United Kingdom and between the Libyan Arab Jamahiriya and the United States of America, by which the Court found that it has jurisdiction over the case and that the application filed by the Libyan Arab Jamahiriya was admissible.

The Islamic Republic of Iran hopes that the Judgments of the International Court will lead to the achievement of a peaceful solution to the crisis agreeable to all parties concerned and to the lifting of the sanctions imposed on the people of the Libyan Arab Jamahiriya by Security Council resolutions 748 (1992) and 883 (1993). In our view, in addition to clarifying the crux of the legal issue in the Lockerbie incident, which would ultimately serve the interest of justice in this case, the Judgments of the Court were indeed an important step in upholding the authority of that international legal body, on the one hand, and strengthening the rule of law at the international level, on the other.

The views expressed at the highest political levels of the Organization of African Unity, the League of Arab States, the Non-Aligned Movement and the Organization of Islamic Conference — together comprising an overwhelming majority of the United Nations membership — are quite clear on the dispute between the Libyan Arab Jamahiriya and the United States and the United Kingdom. And these views have been confirmed, once again, in this debate. In this regard, all these organizations have consistently adopted resolutions calling upon the Western States concerned to respond positively to the initiatives of the Libyan Arab Jamahiriya in order to reach a settlement on the basis of international law and through dialogue and understanding. One such example is resolution 14/8 adopted by the Islamic summit held in Tehran in December 1997, in which the heads of States and Governments of the members of the Organization of the Islamic Conference supported

> "the efforts exerted by the League of Arab States and the Organization of African Unity to persuade the Security Council to accept one of the three options which they proposed jointly to the Council".

The Islamic Conference of Foreign Ministers held in Doha, Qatar, earlier this week attached the same importance to this issue.

The Islamic Republic of Iran believes that the time has come to resolve this issue in a manner consistent with the rule of international law, in which the interests of justice would be served and the sovereignty of the Libyan Arab Jamahiriya respected.

The President: I thank the representative of Islamic Republic of Iran for his kind words addressed to me.

The next speaker is the representative of Malaysia. I invite him to take a seat at the Council table and make his statement.

Mr. Hasmy (Malaysia): My delegation expresses its satisfaction at the Security Council's decision to convene this formal meeting today under your presidency, Sir, to consider the dispute between the Libyan Arab Jamahiriya and the United States and the United Kingdom, with the participation of Member States which are not members of the Council. This provides an opportunity for Member States not members of the Council to present their views on this important issue. This open formal meeting of the Council represents a positive and welcome step towards increased transparency and openness in the work of the Council, which we all seek, and for this we commend the Council.

It has been almost 10 long years since the tragic incident over Lockerbie, Scotland, which claimed the precious lives of 270 people to whose memory the Council appropriately paid tribute this morning. During these years the relatives and friends of the victims of that heart-rending tragedy have been waiting in great anguish and anticipation to see justice meted out to the perpetrators of that heinous crime. At the same time, it has been an agonizingly long wait for the two Libyan nationals who have been accused of committing the crime, while the people of Libya have gone through a decade of travail and hardship as a result of the sanctions imposed upon their country by the Security Council. In the wake of the historic procedural decisions of the International Court of Justice on 28 February 1998, this meeting provides an opportunity for the Council to reconsider the issue in all its aspects, with a view to finding a peaceful resolution of the dispute in the best interests of all the parties concerned.

As we understand it, the Libyan Arab Jamahiriya is not refusing to abide by the rules of international law. It simply wants to ensure that the interests of its two nationals accused of the crime are safeguarded and, equally importantly, that Libya's sovereign rights and dignity are respected. Pursuant to this, Libya has made a number of concrete proposals to resolve the dispute, consistent with its obligations under international law, particularly the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971.

Unfortunately, these offers are not acceptable to the United States and the United Kingdom on account of their own principled positions, which have been clearly restated today. In our view, the proposals by Libya are reasonable, constructive and pragmatic. As Libya has pointed out, the conduct of a trial away from the place where the alleged crime took place is not abnormal and has precedent in State practice for the purpose of ensuring that the accused will be assured of a free and fair trial in a neutral place. What is being asked in respect of the two accused Libyan nationals is an extension of that State practice and precedent to the international level. While unprecedented, this offers a practical way of resolving the dispute.

My delegation appreciates the efforts of the Organization of African Unity (OAU) and the League of Arab States in trying to find a resolution to the dispute. We support their proposals conveyed to the United Nations Secretary-General by the OAU, as contained in Security Council document S/1998/202 of 6 March 1998, and those jointly made by the OAU and the League of Arab States, in document S/1997/497 of 27 June 1997, both of which proposed the holding of a trial of the two Libyan suspects in a third or neutral country to be determined by the Security Council, a trial by Scottish judges at the International Court of Justice in accordance with Scottish laws or a trial by an ad hoc criminal tribunal to be established for this purpose at the World Court. These proposals, which are also supported by the Organization of the Islamic Conference and the Non-Aligned Movement, are fair and reasonable and deserve serious consideration. If accepted, any one of them would offer a practical way out of the current stalemate.

My delegation also supports the call jointly made by the OAU and the League of Arab States for the Security Council, pending the final solution of the crisis through one of the above-mentioned modalities, to undertake a review of the sanctions regime against Libya so as to ease the severity of the impact of the air embargo on the country's public-health and social conditions by exempting flights for medical, humanitarian-relief and religious purposes — particularly in respect of the performance of the Umrah and obligatory Hajj pilgrimages, which are important to Muslims and should not have been included in the sanctions regime in the first place, out of respect for that religion — as well as for flights in connection with participation in official missions.

My delegation commends the Secretary-General for his decision to dispatch a fact-finding mission to Libya in December 1997, led by Director-General Vladimir Petrovsky, to obtain the views of the Libyan Government and to see the situation on the ground. It is clear from Mr. Petrovsky's report, based on his interviews and his own observations, that the sanctions, particularly the air embargo, have had an adverse impact on the Libyan economy, especially in the public-health, social and agricultural sectors. My delegation would therefore urge the Council to give the report careful consideration in its continuing and periodic evaluation of the effects of the sanctions regime upon the Libyan people, who, while not destitute, should not continue to be deprived of the full enjoyment of the fruits of economic development because of an international legal/political dispute involving their State for which they are not responsible and therefore should not be blamed or punished.

From the legal perspective, it is clear from the overwhelming majority decisions handed down by the World Court that there does in fact exist a dispute between Libya and the United States and the United Kingdom concerning the interpretation of the Montreal Convention and that the Court has jurisdiction to hear the dispute. The Court, again by overwhelming majority decision, also rejects the objection raised by the United States and the United Kingdom with regard to admissibility, derived by those two countries from Security Council resolutions 748 (1992) and 883 (1993). These decisions should pave the way for a hearing of the dispute by the International Court of Justice so that the matter can be resolved in a peaceful manner, once and for all, in the interests of all the parties concerned, including the relatives and friends of the victims, the two accused men and the international community as a whole, thereby strengthening the system of the rule of law which underpins our entire international system.

Libya and its people can go on being punished for another six years, or more, but we will be no nearer the truth; nor will the cause of justice and fairness be properly served, nor the system of the rule of law be any better advanced, under the present circumstances. In the view of my delegation, the dispute has both legal and political dimensions which necessarily require a mutually acceptable mechanism for its resolution. The mechanism provided by the Court's decisions, or the modalities proposed by the OAU and the League of Arab States, offer a judicious and practical way out of this diplomatic and legal quandary. The place where the trial takes place should not be a major issue.

As a country enjoying warm and cordial relations with all three countries involved, Malaysia earnestly hopes that sooner or later — sooner, we hope, rather than later — the principled positions of the parties concerned will be tempered by wisdom and pragmatism in the interest of bringing this unhappy situation to an end so that justice will not be any further delayed or denied.

The President: I thank the representative of Malaysia for his kind words addressed to me.

The next speaker inscribed on my list is the representative of Colombia. I invite him to take a seat at the Council table and to make his statement.

Mr. Forero (Colombia)(*interpretation from Spanish*): Allow me at the outset to express my delegation's great satisfaction at seeing you, Sir, preside over meetings of the Security Council.

In regard to the matter that the Security Council is considering today, my delegation wishes to underline that in the final communiqué adopted by the Ministerial Meeting of the Non-Aligned Movement, held in New York on 25 September 1997, the Ministers for Foreign Affairs and Heads of delegations of the countries of the Non-Aligned Movement reaffirmed the position expressed in the Final Document of the Eleventh Conference of Heads of State or Government of the Non-Aligned Countries in Cartagena.

The Ministers expressed concern over the three Western countries' disregard of the appeals of regional and international organizations and their efforts to reach a peaceful settlement based on the principles of international law.

They also affirmed that the measures imposed against the Libyan Arab Jamahiriya are no longer justifiable and urged the Security Council to expeditiously review the air embargo and the other measures imposed against Libya with a view to lifting them.

Furthermore, they underlined that the escalation of the crisis, the threat to impose additional sanctions and the use of force as a means of conducting relations between States are in violation of the Charter and the principles of the Non-Aligned Movement.

They reiterated their support for the proposals submitted jointly by the Organization of African Unity and the League of Arab States, as contained in the declaration of the 65th regular session of the Council of Ministers of the Organization of African Unity, held in February 1997.

The Ministers called for refraining from the imposition of sanctions unless a real threat to international peace and security exists and only after all other peaceful means for settling a dispute have been exhausted.

They also called for refraining from adopting measures in the economic, financial, transportation and communication fields, due to their serious and inhumane effects on populations, as reflected in the views of the General Assembly.

As has been said today, in the current circumstances it is pertinent to reconsider the issue of sanctions. The wide debate given to this issue during the past few years in the Organization, both in the Working Group on an Agenda for Peace and in the Sixth Committee of the General Assembly, is the result of concern for the gravity of the humanitarian consequences of the sanctions.

Once again the discussion centres on the imposition, characteristics, duration, effects and lifting of sanctions. It is clear that the purpose of sanctions is not, and should not be, the punishment of the civilian population of the targeted country and moreover that such punishment should not be prolonged indefinitely.

We are facing the humanitarian problem created by the prolongation of sanctions and measures imposed by the Security Council, without any sign of their being lifted. Sanctions without time limits tend to create unintended and undesirable humanitarian emergencies, creating situations that are incompatible with the purposes of the Charter of the Organization.

Finally, my delegation has taken note with interest of the Judgment by the International Court of Justice regarding the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie*, in particular the analysis of Security Council resolutions 748 (1992) and 883 (1993) vis-à-vis the Convention.

The President: I thank the representative of Colombia for his kind words addressed to me.

The next speaker inscribed on my list is the representative of Lebanon. I invite him to take a seat at the Council table and to make his statement.

Mr. Moubarak (Lebanon) (*interpretation from Arabic*): My delegation takes this opportunity to congratulate you, Sir, on your delegation's assumption of the presidency of the Security Council this month. I also wish to thank your predecessor, the representative of Gabon, who did a remarkable job of presiding over the Council last month.

We associate ourselves with previous speakers in stressing the importance of this meeting to debate a very important issue; important because it affects the security and interests of an entire people and is linked to the principles of international law and justice, which are the underpinnings of the Charter. This issue also involves the suffering of the families of the innocent victims who lost their lives in the Lockerbie disaster.

Lebanon has suffered greatly and continues to suffer daily from State-sponsored terrorism carried out by Israel on Lebanon's territory against its people. Hence our condemnation of terrorism in all its forms, including State-sponsored terrorism.

Today we must ensure that claims are examined in the light of law. The dispute involving Libya has nothing to do with opposition to the principle of the primacy of law. Indeed, Libya has embraced this principle. Rather, this dispute has to do with procedural aspects which, as we have always maintained, could have been quickly settled had the necessary spirit of cooperation prevailed among the parties concerned. When there is uncertainty or doubt, an investigation must be carried out in accordance with the norms of international law. If the State in question refuses to bend to these norms, appropriate measures can then be considered in accordance with international law so that justice is done.

In this specific case, the Libyan Government has emphasized since the outset of the crisis that it is ready to cooperate so that justice is respected within the context of established legal norms, and it has proposed that the stipulations of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civilian Aviation be applied. Libya has even gone so far as to take its case to the International Court of Justice, in accordance with article 14 of the Montreal Convention. Thus, Libya has turned to the supreme judicial authority for a ruling on this legal dispute.

We have always considered that sanctions are a measure of last resort for the Council, to be considered only when all peaceful means for settling a dispute have been exhausted. Sanctions harm an entire people, and they have repercussions on many different peoples because of their adverse consequences on third parties. During the discussions in various bodies of the United Nations, we have noted a burning desire on the part of the overwhelming majority of the members of the international community to treat sanctions as an exceptional measure resorted to only in extreme circumstances.

As far as Libya is concerned, the problem is that of a dispute concerning the appropriate jurisdiction for trying the two suspects. If the political will exists, it is possible to resolve the dispute in a peaceful manner. Lebanon supports the positions of the League of Arab States, the Organization of African Unity, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference in this regard. All these organizations have recommended the need to show restraint and allow justice to take its course in accordance with the provisions of international law. They have also recommended the need for the sanctions imposed on Libya to be re-examined, because that country has not been convicted of any wrongdoing.

All of these organizations have recommended that justice be allowed to take its course in accordance with the norms of international law. They have also recognized the need for the sanctions imposed on Libya to be reexamined, because that country is not under sentence. We believe that the two Judgments of the International Court of Justice send a message embodying the international understanding of the law in this case. They should open the way to a peaceful settlement of the dispute.

We hope that this new information will allow progress to be made and international justice to be done. The point is not for this or that political party to the dispute to win a victory; the point is to see to ensure the triumph of international law through the peaceful resolution of disputes.

The President: I thank the representative of Lebanon for the kind words he addressed to me.

The next speaker is the representative of the Lao People's Democratic Republic. I invite him to take a seat at the Council table and to make his statement.

Mr. Kittikhoun (Lao People's Democratic Republic) (*interpretation from French*): My delegation wishes first to thank you, Sir, and all the members of the Council for having granted our request to speak before this body in order to express our opinion on the item on the Council's agenda today. The Laotian delegation also wishes to congratulate you warmly on your assumption of the presidency of the Council this month, as well as your predecessor, my dear colleague and friend, the Ambassador of Gabon, for the important work he accomplished as President of the Council last month.

My statement will be brief and I strongly hope that, despite its brevity, it will make a positive contribution to the current debate on a question that is as delicate as it is sensitive.

We have not come here to take sides. We understand the reasons and arguments advanced by all parties, particularly those directly involved in this matter. We simply wish to invite those countries involved in this complex problem to take into account the new development or situation that recently emerged as a result of the decision handed down by the International Court of Justice on 27 February 1988 to become seized of the matter now under consideration here.

Once again, let me repeat that we are not here to plead the case for any party. As we have already indicated, we respect any argument adduced by the parties to the dispute. However, our delegation feels it important to recognize the enormous suffering that the Libyan people — and I emphasize the Libyan people — is enduring under the sanctions decided against them, as well as the wish expressed by the families of the victims of the Lockerbie tragedy that a trial should take place, and to draw the conclusion that this matter must find a just solution, acceptable to all, as speedily as possible.

As we all know, this matter has dragged on too long and the Libyan people has suffered greatly and, undoubtedly, too much. We cannot and will not ignore that fact. How much longer must this people, which has committed no crime, endure this suffering? For all these reasons, we appeal to the parties concerned to open a sincere and direct dialogue to resolve this matter as expeditiously as possible.

In accordance with its policy of peace, independence, friendship and cooperation with all countries of the world, the Lao People's Democratic Republic believes in dialogue and ardently aspires to see international conflicts, however complex, resolved through negotiation. On that note, in this new era of international cooperation, we highly hope to see the parties concerned arrive speedily, through dialogue, at a solution acceptable to them. This would contribute to reducing tensions in the region and promoting international peace and security. That is the modest contribution which my delegation wishes to make to this important debate today.

The President: I thank the representative of the Lao People's Democratic Republic for his kind words addressed to me.

There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The Security Council will remain seized of the matter.

The meeting rose at 8.30 p.m.